2026:DHC:9410

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Decision: 05.10.2026

\# **CNR No. DLHC010479402026**

\+ **FAO 329/2026 & CM APPL. 68922/2026**

DELHI DEVELOPMENT AUTHORITY .....Appellant
Through: Mr. Sanjay Vashishtha, SC with Mr. Siddharth Goswami, Advocate.

versus

SANJAY TYAGI .....Respondent
Through: Mr. Armaan Verma, Advocate

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

CM APPL. 68924/2026 (delay in re-filing)

1. By way of the present application, the applicant/appellant seeks condonation of delay of 52 days in re-filing the appeal.

2. For the reasons stated in the application, the same is allowed and the delay of 52 days in re-filing the appeal is condoned.

3. Accordingly, the present application stands disposed of.

CM APPL. 68923/2026 (exemption)

1. Allowed, subject to all just exceptions.

2. The present application is disposed of in the above terms.

FAO 329/2026 & CM APPL. 68922/2026 (stay)

1. The present appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter the "Arbitration Act") has been

preferred by the appellant, i.e. the Delhi Development Authority, assailing the judgment dated 10.03.2026 passed by the learned District Judge-01, South-West District, *Dwarka* Courts in **ARBTN No. 5/2025**, whereby the petition of the appellant under Section 34 of the Arbitration Act against the arbitral award dated 11.01.2025 was dismissed. The challenge is confined to the interest and costs granted under the impugned award to the respondent/*Sh. Sanjay Tyagi*.

2. Briefly stated, the facts stated in the statement of claim were that the appellant conducted an e-auction on 28.07.2016 for the allotment of kiosks on a monthly licence fee basis. The respondent participated in the same and was declared the highest bidder for kiosk nos. 1, 2 and 6 at *Model Plaza, Sector-12, Dwarka, New Delhi*. The appellant thereafter issued offer letters allotting the concerned kiosks to the respondent at a licence fee of Rs.10,536/- per month for each kiosk. The offer letters required the respondent to deposit six months' advance licence fee, and recorded that possession would be handed over only after receipt of the same. The respondent deposited Rs.3,12,921/- towards security money and advance licence fee. The possession letters dated 27.02.2017 made the licence fee payable from the date of physical possession, provided for interest @ 15% per annum on delayed payment of licence fee, and requested the appellant's Executive Engineer to hand over physical possession "*after completion of electricity, water, sewage system including other facilities*". Physical possession was never handed over, and *vide* letters dated 19.08.2021 and 30.11.2021, the appellant cancelled the allotment on the ground that the respondent had neither taken

possession nor paid the licence fee.

3. The disputes were referred to arbitration. The respondent claimed, *inter alia*, a declaration that the termination was illegal, possession of the concerned kiosks, and interest on his deposit, while the appellant raised a counter claim for licence fee along with future interest @ 12% per annum. The learned Sole Arbitrator held that the appellant had undertaken to provide basic amenities before handing over possession, that the respondent was justified in not taking possession in their absence, that no licence fee had fallen due, and that the termination without a show cause notice was illegal. The plea of the appellant that the allotment was on an "as is where is" basis was rejected along with its counter claim. With respect to issue no. 7 concerning the entitlement of the respondent to costs and interest, the learned Sole Arbitrator, invoking Section 31(7) of the Arbitration Act, granted interest @ 12% per annum on the amount deposited from the date of the possession letter, i.e. 27.02.2017, till the handing over of possession. The respondent was also held entitled to the costs of the arbitral proceedings.

4. The appellant accepted the findings on all other issues and challenged the impugned award under Section 34 of the Arbitration Act only *qua* issue no. 7, primarily on the grounds that, being a public authority, it would suffer an erosion of public money, and that the interest and costs awarded were excessive. By way of the impugned judgment, the learned District Judge dismissed the appellant's Section 34 petition, holding that the learned Sole Arbitrator had given valid reasons, and that the appellant had retained the respondent's six

months' licence fee without handing over physical possession of the concerned kiosks.

5. Learned counsel for the appellant contends that the rate of 12% per annum has no rational basis, that the learned District Judge wrongly upheld it with reference to Section 31A(2) of the Arbitration Act, which deals only with costs, and that the post-award interest deserves to be reduced. Insofar as costs are concerned, it is contended that costs of Rs.5,00,000/- were awarded without any documentary proof.

6. *Per contra*, learned counsel for the respondent supports the impugned judgment and submits that the appellant has retained the advance licence fee deposited by the respondent since 2017 without ever handing over possession, and that the interest and costs have rightly been granted.

7. I have heard the learned counsels for the parties and perused the record.

8. The scope of interference in an appeal under Section 37 of the Arbitration Act is well settled. The Supreme Court in *MMTC Ltd. Vs. Vedanta Ltd.*[1] held as under:

> "*14. As far as interference with an order made under Section 34, as per Section 37, is concerned, it cannot be disputed that such interference under Section 37 cannot travel beyond the restrictions laid down under Section 34. In other words, the Court cannot undertake an independent assessment of the merits of the award, and must only ascertain that the exercise of power by the Court under Section 34 has not exceeded the scope of the provision. Thus, it is evident that in case an arbitral award has been confirmed by the Court under Section 34 and by the Court in an appeal under Section*

[1] (2019) 4 SCC 163

37, this Court must be extremely cautious and slow to disturb such concurrent findings."

9. Tested on this anvil, the plea of the appellant raised before the learned District Judge that it is a public authority does not advance its case. None of the grounds under Section 34 of the Arbitration Act turns on the status of the party against whom an award is made. The appellant entered into a commercial arrangement with the respondent and is bound by the consequences of its breach like any other contracting party.

10. Insofar as interest is concerned, the appellant, by its own offer letters, made the deposit of six months' advance licence fee a precondition for handing over possession, and by its own possession letters, made the licence fee payable only from the date of physical possession. The respondent deposited the amount, possession was never handed over, and the appellant has retained the money ever since. Interest in such circumstances is nothing but compensation to the respondent for having been kept out of his money. As regards the rate, Section 31(7)(a) of the Arbitration Act leaves it to what the arbitral tribunal "deems reasonable". The appellant itself stipulated interest @ 15% per annum on delayed payment of licence fee, and itself sought interest @ 12% per annum in its counter claim. The very same rate can hardly be called unreasonable when awarded against it.

11. It is true that the learned District Judge has referred to Section 31A(2) of the Arbitration Act while upholding the grant of interest. However, the impugned award expressly traces the grant of interest to Section 31(7) of the Arbitration Act, and the conclusion of the learned

District Judge stands on the retention of the licence fee without handing over possession. This imprecise reference cannot be held to vitiate the impugned judgment in its entirety. The appellant has failed to show any circumstance warranting modification of the post-award interest beyond reiterating that the rate is high.

12. With respect to costs, Section 31A of the Arbitration Act vests the arbitral tribunal with the discretion to determine whether costs are payable and their amount. The learned Sole Arbitrator has duly recorded reasons for granting costs, namely that the respondent was precluded from commencing his business while the appellant retained his money. Whether the costs so awarded are reasonable is a matter within the discretion of the learned Sole Arbitrator, and no ground has been made out before this Court to warrant interference with the exercise of such discretion.

13. Considering all the above, this Court finds no infirmity in the impugned judgment or the impugned award. Accordingly, the present appeal is dismissed.

14. The pending application is also disposed of in the above terms.

(MANOJ KUMAR OHRI)
JUDGE

OCTOBER 05, 2026
nb
corrected and released on 19.10.2026

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