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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25-09-2025

DATE OF DECISION : 06-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb O.P(Com.Div.) No.353 of 2025

AND

Appln No.3025 of 2025

TRULIV Properties and Services Private Limited
represented by its Authorised Signatory
Mr.T.Rohit Reddy
Co-Founder and CEO
1st Floor, Khivraj Complex, 480, Anna Salai
Nandanam, Chennai 600 035

Petitioner(s)

Vs

C.Ravishankar
Plot No.5, Chinappa Nagar
Chennai 600 056

Respondent(s)

Arb O.P(COM.DIV.) No. 353 of 2025

PRAYER

a) To set aside the Arbitration Award dated 31.05.2025 passed by the Ld.Sole Arbitrator, except in so far it:

- i) Directs the Respondent to pay a sum of Rs.32,40,000/- to the Petitioner.
- ii) Permits the Petitioner to take back furnishing items provided by the Petitioner.

b) To modify the portion of the Arbitral Award dated 31.05.2025 passed by the



Learned Sole Arbitrator, as mentioned in prayer (a), by awarding interest on the sum of Rs.32,40,000/- 18 percent p.a. from 12.07.2019 till date of realization.

c) To direct the Respondent to pay the costs.

A No. 3025 of 2025

PRAYER

To grant an order of stay of operation of the Award dated 31.05.2025 passed by Mr.V.Nallasenapathy, Advocate, Sole Arbitrator, pending disposal of the aforesaid Arb.O.P before this Hon'ble Court.

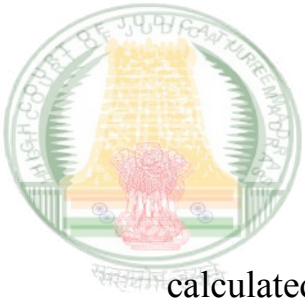
For Petitioner(s) : Mr.Sathish Parasaran
Senior Counsel for
Mr.G.Vivekanand

For Respondent(s) : Set Ex parte

ORDER

This petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for brevity, hereinafter referred to as “the Act”) against the arbitral award dated 31.05.2025 passed by the sole Arbitrator.

2. The case of the petitioner is that the respondent is the absolute owner of 20 residential flats in a project known as 'Sobha Serene'. After negotiation, the petitioner and the respondent entered into a lease deed dated 12.07.2019 in respect of all the 20 flats. The lease was for a period of five years commencing from 11.07.2019 to 30.06.2024. The monthly rent was fixed at Rs.5,40,000/-



calculated at the rate of Rs.27,000/- per flat. The petitioner has to use the properties as service apartments and the petitioner was also given the right to sub-lease the apartments to the tenants identified by the petitioner. The petitioner has to do the furnishing and fittings, which are described in the Annexure-A. The petitioner must also pay the refundable security deposit of a sum of Rs.32,40,000/- to the respondent at the time of handing over of vacant possession or the termination or expiry of the lease period, whichever is earlier. The agreement also contained an arbitration clause at Clause 23, where it was agreed that all disputes/differences arising out of the lease deed will be referred to and resolved through arbitration.

3. Pursuant to the above agreement, the petitioner paid the interest free refundable security deposit of a sum of Rs.32,40,000/-. The petitioner also paid a sum of Rs.3,18,600/- including TDS towards brokerage commission. The petitioner purchased the furniture and fixtures for all the 20 flats inclusive of the hardware items worth Rs.1,77,086/-. Thus the petitioner had invested huge sums in the project for the development of the flats as service apartments.

4. The petitioner received a legal notice dated 31.08.2019 from M/s Sobha Developers Limited about a joint venture agreement entered into between



Sobha Developers Limited and the respondent and that there were certain disputes amongst them and it was pending adjudication before the Arbitral Tribunal (for short, “the AT”). It was further stated that an interim order was passed by the AT on 27.12.2016 restraining the respondent from in any manner selling or creating any encumbrance in the properties. A copy of the interim order was also annexed along with the notice.

5. On receipt of the above notice, a notice was given by the petitioner to the respondent on 28.09.2019 seeking clarification on the order of injunction and further sought for the refund of all the costs incurred by the petitioner in connection with the renovation of the flats. Though this notice was delivered to the respondent on 01.10.2019, no reply was forthcoming and the entire investment made by the petitioner got locked into this project. The petitioner felt that they were cheated and hence gave a police complaint before the concerned jurisdictional police. The respondent was called for enquiry and he conceded to the fact that an interim order was in fact passed by the AT, and the respondent therefore agreed for termination of the lease deed and also undertook to return back the security deposit of a sum of Rs.32,40,000/- on or before 30.01.2020. Based on this undertaking, the petitioner also stopped renovation of the flats and was expecting the respondent to honour the



undertaking by refunding the amount and taking back possession of the flats.

6. The respondent issued a notice dated 14.09.2020 by making baseless allegations and in this notice, the respondent rescinded to any liability that arose from the lease deed and refused to return back the amount lying as security deposit. The respondent was also attempting to interpret the interim order passed by the AT. According to the petitioner, this stand was taken by the respondent only to renege on his obligation under the agreement and wriggle out of the liability.

7. The petitioner invoked the arbitration clause and nominated an Arbitrator through notice dated 04.05.2021. Since there was no response, a petition came to be filed before this Court in Arb O.P.(Com.Div.)No.44 of 2023 and the sole arbitrator was appointed.

8. After constitution of the AT, the petitioner filed a claim petition seeking for refund of the refundable deposit, reimbursement of costs spent towards furnishing and renovation, compensation towards brokerage fees, compensation towards damages, along with interest.



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9. The respondent entered appearance and filed a statement of defence by making the same bald allegations and also took a stand that the petitioner is liable to pay the arrears of rent from 11.09.2019 to 31.05.2023 to the tune of Rs.2,32,20,000/-.

10. The learned Arbitrator framed the following issues:-

“(1) Whether the minutes of Arbitral Tribunal of three Hon'ble retired Judges dated 27.12.2016 between the Respondent and one Shoba Limited would have any effect on the lease contract between the parties herein?

(2) Whether the termination of the lease deed by the Claimant is valid in law?

(3) Whether the lease as per the terms of the Lease Deed dated 12.07.2019 is deemed to have commenced between the Claimant and the Respondent?

(4) Whether Section 108(q) of Transfer of Property Act, 1882 is applicable in this case?

(5) Whether possession was delivered to the Respondent subsequent to the termination of lease by the Claimant?

(6) Whether the Claimant is entitled to refund of the Security Deposit of Rs.53,60,291/- inclusive of interest with an additional interest calculated at the rate of 18% per annum from 26.05.2023 till the date of realization of the amounts?

(7) Whether the Claimant is entitled to Rs.5,42,408/- towards reimbursement of costs incurred for furnishing the subject premises inclusive of interest with an additional



interest calculated at the rate of 18% from 26.05.2023 till the date of realization of amounts?

(8) Whether the Claimant is entitled to refund of Rs.5,27,095/- towards brokerage fee inclusive of the interest with an additional interest calculated at the rate of 18% from 26.05.2023 till the date of realization of amounts?

(9) Whether the Claimant is liable to pay arrears of rent from 11.09.2019 to 31.05.2023 to the extent Rs.2,32,20,000/- as claimed in the counter claim statement of the Respondent?

(10) Whether the Claimant is entitled for damages to the extent of Rs.10,00,000/- as claimed in the claim statement?

(11) Whether the parties are entitled to any other relief?”

11. One witness was examined on the side of the petitioner/Claimant as CW1 and the respondent examined himself as RW1. Exhibits C1 to C16 were marked on the side of the petitioner and Exhibits R1 to R12 were marked on the side of the respondent.

12. The learned Arbitrator, through award dated 31.05.2025, came to the following conclusions:-

“(a) the Claimant is liable to pay Rs.1,99,80,000/- (Rupees one crore ninety nine lakhs and eighty thousand only) to the respondent towards the counter claim after adjustment of security deposit;

(b) the claimant is liable to pay interest @ 10% per annum on the above said amount from the date of award till



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realization;

(c) the Claimant is entitled to take back the additional furnishing items provided by them;

(d) the Claimant is directed to handover the possession of the subject premises to the Respondent by delivering the keys and EB cards on or before 15.06.2025;

(e) all the interim orders passed by this tribunal stands vacated;

(f) the Claimant and the Respondent to pay the arbitrator, the balance fee of Rs.1,77,255/- each. After receipt of payment from the parties the signed copy of the award will be sent to the parties.”

13. Aggrieved by the above award, the present petition has been filed before this Court.

14. Notice was issued to the respondent and since the respondent neither appeared in person nor through counsel, he was set ex parte by an order dated 22.07.2025.

15. Heard the learned Senior Counsel for petitioner and carefully perused the materials available on record.

16. The first issue that was taken into consideration by the learned



Arbitrator pertained to the effect of the order passed on 27.12.2016 by the AT (Ex.C16) and whether it had an impact/effect on the contract between the parties. The order passed by the AT dated 27.12.2016 is based on a written undertaking given by the respondent in this proceedings to the effect that he will not sell/encumber/alienate the flats given to him without further orders from the AT. Thus, it is quite apparent that the AT did not pass orders on merits and the AT merely recorded the undertaking given by the respondent and treated it as an interim arrangement pending the final decision by the AT. The proceedings have been signed by the presiding Arbitrator.

17. The sole Arbitrator, by relying upon Section 31 of the Act, has come to a conclusion that since all the members did not sign the proceedings, the proceedings do not have any effect and therefore, they will not have a bearing on the lease agreement entered into between the parties.

18. The above finding of the learned Arbitrator, on the face of it, is illegal. Section 31 of the Act deals with form and contents of arbitral award. The proceedings dated 27.12.2016 cannot even be considered to be an order, since the AT has merely recorded the undertaking given by the respondent. Therefore, to read Section 31 of the Act into the said proceedings and giving a finding that



the proceedings are non est in the eye of law, is clearly a perverse finding. It is quite surprising that such a finding has been rendered by the learned Arbitrator, even though the respondent has not pleaded to that effect or argued that the interim order is non est in the eye of law. In fact, the respondent in the proof affidavit, has relied upon Section 29 of the Act and Section 29(2) makes it very clear that the question of procedure will be decided by the presiding Arbitrator and hence, the proceedings dated 27.12.2016 were recorded and signed by the presiding Arbitrator. The above finding of the learned Arbitrator is violative of the principles of natural justice, since this point was not raised and the petitioner never had an opportunity to put forth their arguments on the issue that has been raised by the Arbitrator for the first time while passing the award. Therefore, this finding falls foul under Section 34(2)(d)(iv) of the Act. The above finding is also afflicted with patent illegality under Section 34(2A) of the Act, since the finding in the final award is completely contrary to the finding that was given while dealing with the application filed under Section 17 of the Act, where the sole Arbitrator has found that the undertaking given before the AT and which was recorded in the proceedings, binds the respondent. Thus, the finding that was rendered at the time of passing the interim order and the finding that was rendered at the time of passing the final award are mutually contradictory. The above perverse finding is also irrational, since the same Arbitrator could not



have rendered one finding at the time of passing the interim order and a completely conflicting finding at the time of passing the final award. Useful reference can be made to the judgment of the Apex Court in the case of *Associate Builders v. Delhi Development Authority*, (2015) 3 SCC 49.

19. Insofar as the second issue which deals with the termination of the lease deed by the petitioner, the learned Arbitrator has given a finding that the termination of lease by the petitioner is not legally valid.

20. In order to render the above finding, the learned Arbitrator has placed reliance upon Section 106 of the Transfer of Property Act and Section 49 of the Registration Act. Surprisingly, the respondent did not even raise these issues in the pleadings. The learned Arbitrator has held that the lease deed in question is an unregistered document and Section 49 bars the reception of such a document and therefore, it cannot be admitted in evidence and hence, in the case on hand, the contract of lease must be taken to be an oral agreement. Therefore, relying upon Section 106(3) and (4) of the Transfer of Property Act, the learned Arbitrator has given a finding that the party to such a contract must issue a notice in writing or serve such notice in person expressing his intention to determine the contract. Since the petitioner gave only a ten day notice, it is not



in line with Section 106(3) and therefore, the termination of lease is not legally valid.

21. The above finding of the learned Arbitrator, on the face of it, is perverse. The finding of the learned Arbitrator has no legal basis, since the learned Arbitrator has presumed that there is an oral agreement when in fact, there was a written agreement between the parties. If according to the learned Arbitrator, the lease deed is inadmissible in evidence, the learned Arbitrator ought to have seen whether it can be relied upon for collateral purpose under the proviso to Section 49 of the Registration Act. That would have enabled the learned Arbitrator at least to decide upon the nature and character of possession of the property. Instead the Arbitrator has re-written the contract itself, which is a patent illegality, which falls foul under Section 34(2A) of the Act. Such a finding also shocks the conscience of this Court and therefore, the finding falls foul of Section 34(2)(d)(iv) of the Act.

22. In the light of the finding given for issue no.2, the finding that was rendered for issue no.4 also suffers from patent illegality, since the learned Arbitrator has applied Section 108(q) of the Transfer of Property Act on the assumption it was an oral agreement between the parties. Surprisingly, after



having rendered a finding, the learned Arbitrator also analyses the relevant clauses in the lease deed and comes to a conclusion that Section 108(q) of the Transfer of Property Act will be applicable and renders a finding in favour of the respondent. Section 108 starts with a categoric expression that “in the absence of a contract to the contrary”, the rights and liabilities of the lessor and lessee will flow from Section 108 of the Transfer of Property Act. In the case on hand, there was a written contract between the parties and as per the terms of the agreement (Ex.C2), the respondent was supposed to obtain all necessary permission from the concerned authorities and Association in order to allow the petitioner to use and occupy the properties as service residency. In the case on hand, the respondent entered into an agreement with the petitioner in the teeth of an undertaking given before the AT that the respondent will not encumber the properties in any manner. Under such circumstances, Section 108(q) will not apply to the instant case.

23. The sole arbitrator also failed to take note of the distinction between the lease commencement date and the rent commencement date, which was clearly explained by CW1. As per the lease deed, sixty days time was given for furnishing the flats. But, however, it all came to a grinding halt due to the interim order passed by the AT and therefore, the parties did not go to the next



step of commencement of payment of rent.

24. The finding of the learned Arbitrator is in violation of the substantive law and it disregards the most basic notions of justice and it falls foul of Section 34(2)(d)(ii) of the Act. Thus the finding rendered for issue no.4 is also unsustainable.

25. Insofar as the third issue is concerned, the Arbitrator has considered as to whether the lease is deemed to have commenced between the petitioner and the respondent. The Arbitrator has held that the lease has commenced, since Ex.C16 order does not have any effect and therefore the respondent was entitled to execute the lease agreement in favour of the petitioner. This finding is perverse and it suffers from patent illegality due to the reasons assigned by this Court for issue no.1.

26. Insofar as issue nos.5 to 9 are concerned, they can be taken up together, since they are interrelated. The petitioner has paid the security deposit of a sum of Rs.53,60,291/-. The respondent was claiming for payment of arrears of rent from 11.09.2019 to 31.05.2023. Even though possession was handed over to the petitioner, it was at the stage of furnishing and fittings to be done for



the 20 flats and everything came to a grinding halt due to the interim order passed by the AT, which was informed to the petitioner by the builder at a later point of time. The learned Arbitrator held that the petitioner is entitled for the refund of the security deposit only to an extent of Rs.32,40,000/-, since that was the amount that was paid under Clause 7 of the agreement. Having held so, for the ninth issue, the learned Arbitrator holds that the petitioner is liable to pay arrears of rent from 11.09.2019 to 31.05.2023, which was the counter claim made by the respondent. The learned Arbitrator has once again relied upon Section 108(q) of the Transfer of Property Act to come to this conclusion. This Court has already held that the said provision will not apply to the facts of the present case, since there is a contract to the contrary and the incidence of payment of rent will commence only after the respondent completes his obligation to get the necessary permission of the authority and thereafter allow the petitioner to use and occupy the property as a serviced residency. The learned Arbitrator failed to take note of the fact that the commencement of payment of rent starts from 11.09.2019 and whereas, the petitioner had in fact terminated the lease on 28.09.2019 (Ex.C8). Therefore, there was no occasion for the petitioner to occupy the premises and the stage of payment of rent was never reached. The learned Arbitrator directing the petitioner to pay rents to the respondent for the period from 11.09.2019 to 31.05.2023 is more in the nature



of giving premium for the illegality committed by the respondent by violating the undertaking given before the AT and concealing the said fact and entering into a lease agreement with the petitioner. The conclusion arrived at by the learned Arbitrator to the effect that the petitioner has to pay arrears of rent for the period from 11.09.2019 to 31.05.2023 suffers from patent illegality and it is contrary to the terms of the agreement and such finding also shocks the conscience of this Court. In view of the same, the order passed by the learned Arbitrator allowing the counter claim made by the respondent falls foul of Section 34(2)(d)(ii) and Section 34(2A) of the Act.

27. The other issue pertaining to reimbursement of costs incurred by the petitioner towards purchase of hardware items and modular kitchen plywood and also the expenses incurred towards transportation charges, administration and document expenses is concerned, Ex.C6, which are two tax invoice, will have to be necessarily acted upon and the petitioner will be entitled for a total sum of Rs.1,77,086/-.

28. Insofar as the issue regarding refund of the brokerage fees, Ex.C4 proves that the petitioner has paid a sum of Rs.3,18,600/- to the consultant. The very agreement that was entered into by the respondent with the petitioner is



illegal and is in violation of the undertaking given by the respondent before the AT. However, the Arbitrator has chosen to disregard Ex.C16, which has already been held by this Court to be patently illegal. Therefore, the brokerage expense incurred by the petitioner is also liable to be refunded by the respondent.

29. Insofar as the tenth issue which deals with the payment of damages, the petitioner has taken a stand that the respondent has misled the petitioner and made the petitioner enter into the lease agreement by concealing the undertaking given before the AT and therefore, the petitioner has been put to loss and hardship, as a result of which the petitioner is seeking for payment of damages.

30. It is now too well settled that where a person has sustained loss by reason of breach of contract, he is, so far as money can do it, be placed in the same situation, with respect to damages, as if the contract had been performed. In the instant case, it may not be possible to assess the damages with certainty. However, there is a breach of contract and the wrong-doer cannot be set free without paying the damages. Therefore, the Court can always make reasonable assessment and fix a reasonable amount towards damages. In short, the Court is ultimately required to apply its mind in ascertaining whether the breach of contract operates as an effective cause of the loss claimed.



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31. Considering the fact that the petitioner was undergoing mental agony from the year 2019 onwards due to the act of the respondent, which is tainted with moral turpitude, the petitioner is certainly entitled for payment of damages due to the breach of contract and which contract is non est in the eye of law, since it was done in violation of the undertaking given before the AT and without revealing the truth to the petitioner.

32. This Court is inclined to fix a sum of Rs.2,50,000/- towards damages. The learned Arbitrator went wrong in not awarding any amount under this head and the Arbitrator was patently wrong in denying this relief, on the premise that the proceedings of the AT dated 27.12.2016 need not be acted upon.

33. The upshot of the above discussion leads to the only conclusion that the award passed by the sole Arbitrator dated 31.05.2025 falls foul of Section 34(2)(b)(ii) and Section 34(2A) of the Act and this Court holds that the **petitioner** is entitled for the following reliefs:-

(a) For refund of a sum of Rs.32,40,000/- paid as refundable security deposit with interest at the rate of 12% per annum from 08.10.2019 till the date of actual realization;



- (b) For reimbursement of cost to the tune of Rs.1,77,086/- with interest at the rate of 12% per annum from 08.10.2019 till the date of actual realization;
- (c) For refund of brokerage fee of Rs.3,18,600/- with interest at the rate of 12% per annum from 08.10.2019 till the date of actual realization;
- (d) For compensation towards damages quantified at Rs.2,50,000/-.

34. In the result, this original petition is allowed in the above terms with costs of Rs.2,50,000/- payable by the respondent to the petitioner. Consequently, Application No.3025 of 2025 is closed.

06-10-2025

Index: Yes
Speaking order
Internet: Yes
Neutral Citation: Yes

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**N.ANAND
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**Order in Arb
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