SURESH SHAH A

V.

HIPAD TECHNOLOGY INDIA PRIVATE LIMITED

(Arbitration Petition (Civil) No. 08/2020)

DECEMBER 18, 2020 B

[S. A. BOBDE, CJI, A. S. BOPANNA AND V. RAMASUBRAMANIAN, JJ.]

Arbitration: Arbitrability of the dispute relating to lease/ tenancy agreements/deeds when such lease is governed by the Transfer of Property Act, 1882 – Held: When the disputes arise between the landlord and tenant with regard to determination of lease under the TP Act, the landlord for seeking possession of the leased property in a normal circumstance is required to institute a suit in the court which has jurisdiction – However, if the parties in the contract of lease have agreed upon the alternate mode of dispute resolution through arbitration, the landlord would be entitled to invoke the arbitration clause and make a claim before the arbitrator – The instant case is governed by the Transfer of Property Act, petitioner-landlord while invoking the arbitration clause nominated sole arbitrator and issued notice to the respondent-tenant – Respondent neither replied to the notice nor objected to the arbitrator proposed by the petitioner – Since dispute between the parties is to be resolved through arbitration, the prayer made in this petition is accepted – Petition for appointment of nominated sole arbitrator allowed – Transfer of Property Act, 1882 – ss.111, 114, 114A. C D E

Arbitration: Arbitrability of the dispute arising under the Rent Act – Held: If the eviction or tenancy is governed by a special statute, namely, the Rent Act, the premises being amenable to the provisions of the Act would also provide statutory protection against eviction and the courts specified in the Act alone will be conferred jurisdiction to order eviction or to resolve such other disputes – In such proceedings under special statutes, the issue to be considered by the jurisdictional court is not merely the terms and conditions entered into between the landlord and tenant but also other aspects such as the bonafide requirement, comparative hardship etc. even if the case for eviction is made out – In such circumstance, the Court having jurisdiction alone can advert into all these aspects as F G H

A *a statutory requirement and such cases are not arbitrable – Rent Control Legislation.*

Allowing the Arbitration Petition, the Court

HELD: 1. A perusal of s.111 & 114, 114 A of TP Act indicate the manner in which the determination of lease would occur, which also includes determination by forfeiture due to the acts of the lessee/tenant in breaking the express condition agreed between the parties or provided in law. The breach and the consequent forfeiture could also be with respect to non-payment of rent. In such circumstance where the lease is determined by forfeiture and the lessor sues to eject the lessee and, if, at the hearing of the suit, the lessee pays or tenders to the lessor the rent in arrear, Section 114 of TP Act provides that the Court instead of passing a decree for ejectment may pass an order relieving the lessee against the forfeiture due to which the lessee will be entitled to hold the property leased as if the forfeiture had not occurred. Under Section 114A of the TP Act, a condition for issue of notice prior to filing suit of ejectment is provided so as to enable the lessee to remedy the breach. No doubt the said provisions provide certain protection to the lessee/tenant before being ejected from the leased property. The same cannot be construed as a statutory protection nor as a hard and fast rule in all cases to waive the forfeiture. It is a provision enabling exercise of equitable jurisdiction in appropriate cases as a matter of discretion. [Para 15][831-F-H; 832-A-B]

2. Such equitable protection does not mean that the disputes relating to those aspects between the landlord and the tenant is not arbitrable and that only a Court is empowered to waive the forfeiture or not in the circumstance stated in the provision. When the disputes arise between the landlord and tenant with regard to determination of lease under the TP Act, the landlord to secure possession of the leased property in a normal circumstance is required to institute a suit in the Court which has jurisdiction. However, if the parties in the contract of lease or in such other manner have agreed upon the alternate mode of dispute resolution through arbitration the landlord would

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be entitled to invoke the arbitration clause and make a claim before the Arbitrator. Even in such proceedings, if the circumstances as contained in Section 114 and 114A of TP Act arise, it could be brought up before the Arbitrator who would take note of the same and act in accordance with the law *qua* passing the award. [Para 16][832-E-H]

3. Insofar as eviction or tenancy relating to matters governed by special statutes where the tenant enjoys statutory protection against eviction whereunder the Court/Forum is specified and conferred jurisdiction under the statute alone can adjudicate such matters. Hence in such cases the dispute is non-arbitrable. If the special statutes do not apply to the premises/ property and the lease/tenancy created thereunder as on the date when the cause of action arises to seek for eviction or such other relief and in such transaction if the parties are governed by an Arbitration Clause; the dispute between the parties is arbitrable and there shall be no impediment whatsoever to invoke the Arbitration Clause. [Para 18][833-F-G]

4. The petitioner in the instant case while invoking the Arbitration Clause has proposed the name of Justice (Retired) Mukul Mudgal as the Sole Arbitrator. The respondent neither replied to the said notice nor objected to the Arbitrator proposed by the petitioner. In that backdrop since a dispute between the parties is to be resolved through Arbitration, the prayer made in this petition is liable to be accepted. [Para 19][834-A-B]

Vidya Drolia & Ors. v. Durga Trading Corporation **(2019) SCC online SC 358 : 2019 (3) SCR 465 – relied on.**

Booz Allen and Hamilton Inc v. SBI Home Finance Limited and Others **(2011) 5 SCC 532: [2011] 7 SCR 310;** *Himangni Enterprises v. Kamaljeet Singh Ahluwalia* **(2017) 10 SCC 706:[2017] 10 SCR 139;** *Natraj Studios Ltd. v. Navrang Studios* **(1981) 1 SCC 523: [1981] 2 SCR 466;** *Namdeo Lokman Lodhi v. Narmadabai & Others AIR* **1953 SC 228:[1953] SCR 1009 – referred to.**

A **Case Law Reference**

[2011] 7 SCR 310	**referred to**	**Para 9**
[2017] 10 SCR 139	**referred to**	**Para 9**
[1981] 2 SCR 466	**referred to**	**Para 9**
2019 (3) SCR 465	**relied on**	**Para 11**
[1953] SCR 1009	**referred to**	**Para 15**

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CIVIL ORIGINAL JURISDICTION: Arbitration Petition (Civil) No. 08 of 2020

C [Petition under Section 11(5) of Arbitration and Conciliation Act, 1996 for appointment of sole Arbitrator]

Vikas Dhawan, Satyabrata Panda, Shashwat Panda, Advs. for the appearing parties.

The Judgment of the Court was delivered by

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A.S. BOPANNA, J.

1. The petitioner has instituted this petition under Section 11(5) of the Arbitration and Conciliation Act, 1996 ('Act, 1996' for short) seeking appointment of a Sole Arbitrator for resolving the disputes that have arisen between the parties in relation to the Sub-Lease deed dated 14.11.2018.

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2. The property bearing No.154-B, Block 'A' Sector 63, Phase-III, NOIDA, Gautam Budh Nagar, U.P. having been initially allotted and leased by New Okhla Industrial Development Authority ('NOIDA' for short) under a Lease dated 26.03.2003 had changed hands and the lease was ultimately transferred in favour of the petitioner under a Transfer Memorandum dated 13.04.2011.

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3. The petitioner thus having acquired absolute long-term leasehold right of the land and building referred supra has Sub-Leased the same to the respondent under the Sub- Lease Deed dated 14.11.2018. In respect of the Sub-Lease entered into between the parties, certain disputes are stated to have arisen which is to be resolved. Since the Sub-Lease Deed provides for resolution of the disputes through arbitration vide Clause 12 thereof the petitioner invoked the same by issuing a notice dated 11.12.2019, nominated the Sole Arbitrator and sought concurrence from

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the respondent. The respondent did not respond to the same. The petitioner is, therefore, before this Court seeking appointment of the Arbitrator.

4. Notice of this petition was ordered to the respondent on 02.03.2020. Despite service, the respondent has not chosen to appear and oppose this petition. In that light we have heard Mr. Vikas Dhawan, learned counsel for the petitioner and perused the petition papers.

5. The parties to the petition have entered into a Sub- Lease Deed dated 14.11.2018 whereunder the terms of lease have been agreed to between the parties. In respect of the terms and conditions agreed under the Sub-Lease Deed certain disputes have arisen between the parties. In the Deed the parties have agreed that the disputes arising out of the same shall be resolved through Arbitration. The clause thereto reads as hereunder:

> "12.1 All disputes, differences or disagreements arising out of, in connection with or in relation to this Sub-Lease Deed, including w.r.t. its interpretation, performance, termination, in the first instance shall be endeavored to be settled through good faith mutual discussions between the officials of the Sub-Lessor and the Sub-Lessee.
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> 12.2 If no settlement can be reached through such discussions between the Parties within a period of 21 (twenty one) days, then all such unresolved disputes, differences or disagreements shall be finally decided through arbitration, to be held in accordance with the provisions of the Arbitration & Conciliation Act, 1996. The venue of arbitration shall be New Delhi and the language of such arbitration shall be English.
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> 12.3 The Arbitral Tribunal shall consist of a sole arbitrator to be mutually agreed by the Parties. In the event of any disagreement regarding the appointment of the sole arbitrator, the same shall only and exclusively be appointed by the Hon'ble High Court of Delhi at New Delhi. The arbitral award shall be final and binding."

6. The petitioner, therefore, got issued a Notice dated 11.12.2019 detailing the default committed by the respondent which gave rise to the dispute between the parties and also invoked the Arbitration Clause. The petitioner proposed the name of Justice (Retired) Mukul Mudgal as the Sole Arbitrator and indicated that if the respondent does not agree to the same the petitioner would seek appointment of Sole Arbitrator through Court. It is in that view the petitioner is before this Court.

A 7. At the outset, a perusal of the above extracted Clause indicates that the disputes between the parties is to be resolved through Arbitration. A further perusal of the Clause indicates that the parties have agreed to secure appointment of the Arbitrator through the High Court of Delhi at New Delhi. It is in that view an indication to the same effect is made in the notice dated 11.12.2019. Though that be the position the description B of the petitioner in the Sub-Lease Deed as well as in the cause title to this petition and also the averments in the petition indicate that the petitioner is a citizen of Kenya and habitually is a resident of Nairobi, Kenya. Thus, the petitioner being an individual who is a national of Kenya and is habitually a resident of that country; having entered into a contract C and since disputes have arisen under the said document, the same qualifies as an 'International Commercial Arbitration' as defined in Section 2(f) of Act, 1996. In such circumstance, Supreme Court is to appoint an Arbitrator as provided under Section 11(6) of the Act, 1996 and not by the High Court as stated in the contract entered into between the parties.

D 8. However, before considering the appointment of Arbitrator the first part of Clause 12 providing for arbitration needs elaboration to consider the arbitrability of the dispute relating to lease/tenancy agreements/deeds when such lease is governed by Transfer of Property Act, 1882 ('TP Act' for short) and iron out the creases on the legal aspect. The learned counsel for the petitioner asserts that the tenancy in E the instant case is not created under; nor is the leased/tenanted property governed by a special statute where the tenant enjoys statutory protection and as such there is no impediment for resolving the dispute through arbitration. On that aspect the position explained by the Supreme Court in the case of ***Booz Allen and Hamilton Inc vs. SBI Home Finance Limited and Others*** (2011) 5 SCC 532 leaves no doubt. In order to put F the matter in perspective it would be profitable to extract para 35 and 36 which reads as hereunder:

> "35. The Arbitral Tribunals are private fora chosen voluntarily by the parties to the dispute, to adjudicate their disputes in place of G courts and tribunals which are public fora constituted under the laws of the country. Every civil or commercial dispute, either contractual or non-contractual, which can be decided by a court, is in principle capable of being adjudicated and resolved by arbitration unless the jurisdiction of the Arbitral Tribunals is excluded either expressly or by necessary implication. Adjudication

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of certain categories of proceedings are reserved by the legislature exclusively for public fora as a matter of public policy. Certain other categories of cases, though not expressly reserved for adjudication by public fora (courts and tribunals), may by necessary implication stand excluded from the purview of private fora. Consequently, where the cause/dispute is inarbitrable, the court where a suit is pending, will refuse to refer the parties to arbitration, under Section 8 of the Act, even if the parties might have agreed upon arbitration as the forum for settlement of such disputes.

36. The well-recognised examples of non- arbitrable disputes are: (i) disputes relating to rights and liabilities which give rise to or arise out of criminal offences; (ii) matrimonial disputes relating to divorce, judicial separation, restitution of conjugal rights, child custody; (iii) guardianship matters; (iv) insolvency and winding-up matters; (v) testamentary matters (grant of probate, letters of administration and succession certificate); and (vi) eviction or tenancy matters governed by special statutes where the tenant enjoys statutory protection against eviction and only the specified courts are conferred jurisdiction to grant eviction or decide the disputes."

9. Notwithstanding the same, there is a deflection from the settled position due to certain observations contained in the decision of the Supreme Court in the case of **Himangni Enterprises vs. Kamaljeet Singh Ahluwalia** (2017) 10 SCC 706. In the facts therein the landlord had filed a civil suit against the tenant for eviction. In the said suit the tenant filed an application under Section 8 of Act, 1996 seeking reference to arbitration since the parties were governed by an arbitration agreement. The Civil Court had dismissed the application and that order was upheld by the High Court. The Supreme Court while deciding the same, though relied on the decision in the case of Natraj Studios (P) Ltd. vs. Navrang Studios (1981) 1 SCC 523 wherein the issue arose in respect of premises governed under the Bombay Rents, Hotel and Lodging Houses Rates Control Act, 1947 (Special Statute) and the case of **Booz Allen** (supra) wherein it was clearly indicated that non arbitrability is in respect of tenancy governed by special statutes, still upheld the order rejecting the application under Section 8 of Act, 1996 seeking reference to arbitration.

A 10. The observations contained in para 23 and 24 of **Himangni Enterprises** (supra) has brought within its sweep the non-arbitrability of disputes relating to the lease/tenancy governed under TP Act. The said observations read as hereunder:

> "23. The learned counsel for the appellant, however, argued that
> B the provisions of the Delhi Rent Act, 1995 are not applicable to the premises by virtue of Section 3(1)(c) of the Act and hence, the law laid down in the aforementioned two cases [*Natraj Studios (P) Ltd. v. Navrang Studios,* (1981) 1 SCC 523] , [*Booz Allen & Hamilton Inc. v. SBI Home Finance Ltd.,* (2011) 5 SCC 532 :
> C (2011) 2 SCC (Civ) 781] would not apply. We do not agree.
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> 24. The Delhi Rent Act, which deals with the cases relating to rent and eviction of the premises, is a special Act. Though it contains a provision (Section 3) by virtue of it, the provisions of the Act do not apply to certain premises but that does not mean that the Arbitration Act, ipso facto, would be applicable to such
> D premises conferring jurisdiction on the arbitrator to decide the eviction/rent disputes. In such a situation, the rights of the parties and the demised premises would be governed by the Transfer of Property Act and the civil suit would be triable by the civil court and not by the arbitrator. In other words, though by virtue of
> E Section 3 of the Act, the provisions of the Act are not applicable to certain premises but no sooner the exemption is withdrawn or ceased to have its application to a particular premise, the Act becomes applicable to such premises. In this view of the matter, it cannot be contended that the provisions of the Arbitration Act would, therefore, apply to such premises."

F 11. The said observations are made by a Bench of two Hon'ble Judges without detailed reference to the scope of the provisions or the manner of right and protection available to lessees/tenants under TP Act so as to exclude arbitration. In that light, another Bench of two Hon'ble Judges speaking through R.F. Nariman J., in the case of ***Vidya Drolia & Ors. vs. Durga Trading Corporation*** (2019) SCC online SC 358
G noticed that Natraj Studios (supra) had dealt with tenancy under Rent Act and Booz Allen (supra) had made reference to special statutes and had not stated with respect to non-arbitrability of cases arising under TP Act. In that regard having noted the provision contained in Section 111,
H 114 and 114A of TP Act had in para 16 concluded as follows:

"16. In fact, a close reading of Section 114 would show that the rights of landlord and tenant are balanced by the aforesaid provision. This is because where a lease of immoveable property has determined by forfeiture for non-payment of rent, and at the hearing of the suit, the lessee pays or tenders to the lessor the rent in arrears, together with interest thereon and his full costs within 15 days, the Court in its discretion may relieve the lessee against the forfeiture. This shows two things - one that the landlord's interest is secured not only by the deposit of rent in arrears but also interest thereon and full costs of the suit. The option given, of course, is that security may also be given but what is important is that the Court is given a discretion in making a decree for ejectment if this is done. The discretion may be exercised in favour of the tenant or it may not. This itself shows that Section 114 cannot be said to be a provision conceived for relief of tenants as a class as a matter of public policy. The same goes for Section 114A. Here again, a lessee is given one opportunity to remedy breach of an express condition, provided such condition is capable of remedy. However, the exception contained in this section shows that it is a very limited right that is given to a tenant, as this would not apply to assigning, sub- letting, parting with the possession, or disposing of the property leased, or even to an express condition relating to forfeiture in case of non-payment of rent. Thus, it is clear that every one of the grounds stated in Section 111, whether read with Section 114 and/or 114A, are grounds which can be raised before an arbitrator to decide as to whether a lease has or has not determined."

12. Further, with specific reference to the consideration in the case of Natraj Studios (supra) and Booz Allen (supra) it was observed in para 24 of Vidya Drolia (supra) as follows:

"24. A perusal of both the aforesaid judgments, therefore, shows that a Transfer of Property Act situation between a landlord and tenant is very far removed from the situation in either Natraj Studios (supra) or in sub-paragraph (vi) of paragraph 36 of Booz Allen (supra). We are, therefore, of the respectful view that the question involved in a Transfer of Property Act situation cannot possibly be said to have been answered by the two decisions of this Court, as has been stated in paragraph 18 of the said judgment."

A 13. In the reference made to a larger bench in the case of Vidya Drolia (supra) several aspects arose for consideration which has been adverted to therein. However, the only issue for our consideration is as to whether in the instant case the dispute arising under the lease being governed under the TP Act is arbitrable.

B 14. To arrive at our conclusion, we have taken note of the provisions contained in Section 111, 114 and 114A of the TP Act which read as hereunder:

> **"111. Determination of lease.—** A lease of immovable property, determines—
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> C (a) by efflux of the time limited thereby;
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> (b) where such time is limited conditionally on the happening of some event—by the happening of such event;
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> (c) where the interest of the lessor in the property terminates on, or his power to dispose of the same extends only to, the
> D happening of any event—by the happening of such event;
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> (d) in case the interests of the lessee and the lessor in the whole of the property become vested at the same time in one person in the same right;
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> E (e) by express surrender; that is to say, in case the lessee yields up his interest under the lease to the lessor, by mutual agreement between them;
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> (f) by implied surrender;
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> (g) by forfeiture, that is to say, (1) in case the lessee breaks an
> F express condition which provides that on breach thereof the lessor may re-enter; or (2) in case the lessee renounces his character as such by setting up a title in a third person or by claiming title in himself; or (3) the lessee is adjudicated an insolvent and the lease provides that the lessor may re-enter
> G on the happening of such event; and in any of these cases the lessor or his transferee gives notice in writing to the lessee of his intention to determine the lease;
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> (h) on the expiration of a notice to determine the lease, or to quit, or of intention to quit, the property leased, duly given by
> H one party to the other."

"114. Relief against forfeiture for non- payment of rent.— Where a lease of immovable property has been determined by forfeiture for non-payment of rent, and the lessor sues to eject the lessee, if, at the hearing of the suit, the lessee pays or tenders to the lessor the rent in arrear, together with interest thereon and his full costs of the suit, or gives such security as the Court thinks sufficient for making such payment within fifteen days, the Court may, in lieu of making a decree for ejectment, pass an order relieving the lessee against the forfeiture; and thereupon the lessee shall hold the property leased as if the forfeiture had not occurred.

114A. Relief against forfeiture in certain other cases.— Where a lease of immovable property has been determined by forfeiture for a breach of an express condition which provides that on breach thereof the lessor may re-enter, no suit for ejectment shall lie unless and until the lessor has served on the lessee a notice in writing—

(a) specifying the particular breach complained of; and

(b) if the breach is capable of remedy, requiring the lessee to remedy the breach;

and the lessee fails, within a reasonable time from the date of the service of the notice, to remedy the breach, if it is capable of remedy.

Nothing in this section shall apply to an express condition against assigning, under- letting, parting with the possession, or disposing, of the property leased, or to an express condition relating to forfeiture in case of non-payment of rent."

15. A perusal of the provisions indicate the manner in which the determination of lease would occur, which also includes determination by forfeiture due to the acts of the lessee/tenant in breaking the express condition agreed between the parties or provided in law. The breach and the consequent forfeiture could also be with respect to non- payment of rent. In such circumstance where the lease is determined by forfeiture and the lessor sues to eject the lessee and, if, at the hearing of the suit, the lessee pays or tenders to the lessor the rent in arrear, Section 114 of TP Act provides that the Court instead of passing a decree for ejectment may pass an order relieving the lessee against the forfeiture due to which the lessee will be entitled to hold the property leased as if the forfeiture

had not occurred. Under Section 114A of the TP Act a condition for issue of notice prior to filing suit of ejectment is provided so as to enable the lessee to remedy the breach. No doubt the said provisions provide certain protection to the lessee/tenant before being ejected from the leased property. In our considered view, the same cannot be construed as a statutory protection nor as a hard and fast rule in all cases to waive the forfeiture. It is a provision enabling exercise of equitable jurisdiction in appropriate cases as a matter of discretion. This position has been adverted to by the Supreme Court in one of its earliest decision in the case of ***Namdeo Lokman Lodhi vs. Narmadabai & Others*** (AIR 1953 SC 228) as under:

> "….. The argument of Mr. Daphtary that there was no real discretion in the court and relief could not be refused except in cases where third party interests intervene is completely negatived by the decision of the House of Lords in Hyman v. Rose."
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> "…..With great respect we think that the observations cited above contain sound principles of law. We are, therefore, unable to accede to the contention of Mr. Daphtary that though section 114 of the Transfer of Property Act confers a discretion on the court, that discretion except in cases where third party interests intervene must always be exercised in favour of the tenant irrespective of the conduct of the tenant."

16. Such equitable protection does not mean that the disputes relating to those aspects between the landlord and the tenant is not arbitrable and that only a Court is empowered to waive the forfeiture or not in the circumstance stated in the provision. In our view, when the disputes arise between the landlord and tenant with regard to determination of lease under the TP Act, the landlord to secure possession of the leased property in a normal circumstance is required to institute a suit in the Court which has jurisdiction. However, if the parties in the contract of lease or in such other manner have agreed upon the alternate mode of dispute resolution through arbitration the landlord would be entitled to invoke the arbitration clause and make a claim before the learned Arbitrator. Even in such proceedings, if the circumstances as contained in Section 114 and 114A of TP Act arise, it could be brought up before the learned Arbitrator who would take note of the same and act in accordance with the law qua passing the award. In other words, if in the arbitration proceedings the landlord has sought for an award of

ejectment on the ground that the lease has been forfeited since the tenant has failed to pay the rent and breached the express condition for payment of rent or such other breach and in such proceedings the tenant pays or tenders the rent to the lessor or remedies such other breach, it would be open for the Arbitrator to take note of Section 114, 114A of TP Act and pass appropriate award in the nature as a Court would have considered that aspect while exercising the discretion.

17. On the other hand, the disputes arising under the Rent Acts will have to be looked at from a different view point and therefore not arbitrable in those cases. This is for the reason that notwithstanding the terms and conditions entered into between the landlord and tenant to regulate the tenancy, if the eviction or tenancy is governed by a special statute, namely, the Rent Act the premises being amenable to the provisions of the Act would also provide statutory protection against eviction and the courts specified in the Act alone will be conferred jurisdiction to order eviction or to resolve such other disputes. In such proceedings under special statutes the issue to be considered by the jurisdictional court is not merely the terms and conditions entered into between the landlord and tenant but also other aspects such as the bonafide requirement, comparative hardship etc. even if the case for eviction is made out. In such circumstance, the Court having jurisdiction alone can advert into all these aspects as a statutory requirement and, therefore, such cases are not arbitrable. As indicated above, the same is not the position in matters relating to the lease/tenancy which are not governed under the special statutes but under the TP Act.

18. In the backdrop of the above discussion, we are of the considered view that insofar as eviction or tenancy relating to matters governed by special statutes where the tenant enjoys statutory protection against eviction whereunder the Court/Forum is specified and conferred jurisdiction under the statute alone can adjudicate such matters. Hence in such cases the dispute is non-arbitrable. If the special statutes do not apply to the premises/property and the lease/tenancy created thereunder as on the date when the cause of action arises to seek for eviction or such other relief and in such transaction if the parties are governed by an Arbitration Clause; the dispute between the parties is arbitrable and there shall be no impediment whatsoever to invoke the Arbitration Clause. This view is fortified by the opinion expressed by the Co-ordinate Bench while answering the reference made in the case of Vidya Drolia wherein the view taken in Himangni Enterprises is overruled.

A 19. As noted above, the petitioner in the instant case while invoking the Arbitration Clause has proposed the name of Justice (Retired) Mukul Mudgal as the Sole Arbitrator. The respondent neither replied to the said notice nor objected to the Arbitrator proposed by the petitioner. In that backdrop since a dispute between the parties is to be resolved through Arbitration, the prayer made in this petition is liable to be accepted.

B 20. In the result, the petition is allowed. Shri Justice (Retired) Mukul Mudgal, former Chief Justice of Punjab and Haryana High Court is appointed as the Sole Arbitrator to resolve the dispute between the parties. The arbitral fee shall be payable as provided under the Fourth Schedule to Act, 1996. There shall be no order as to costs in this petition.

Devika Gujral Arbitration Petition allowed