



2026:AHC:125325

HIGH COURT OF JUDICATURE AT ALLAHABAD

CIVIL REVISION DEFECTIVE No. - 66 of 2026

Babu Lal Prajapati

.....Revisionist(s)

Versus

M/s Yellow Bird Hotels & Resorts Pvt. Ltd.

.....Opposite
Party(s)

Counsel for Revisionist(s) : Nitin Sharma, Rajneesh Tripathi

Counsel for Opposite Party(s) :

Court No. - 38

HON'BLE KSHITIJ SHAILENDRA, J.

1. Heard Shri Nitin Sharma, learned counsel for the petitioner.
2. This revision is directed against order dated 19.02.2026 whereby the learned Additional District Judge, Court No.6, Gautam Buddha Nagar has issued a writ of possession (Parwana Dakhal) to the Amin.
3. The revision is reported to be beyond time by 4 days.
4. An application under Section 5 of the Limitation Act has been filed through e-mode.
5. For the reasons stated in the affidavit, the application is **allowed**.
6. Delay in filing the revision is condoned.
7. Learned counsel for the revisionist submits that the entire proceedings of execution case are invalid. Submission is that an agreement for sale was executed *inter se* parties and sale deed was also executed thereafter by the petitioner in favour of the other party on 13.07.2014, however, possession was not handed over to the purchaser.
8. The purchaser executed a Memorandum of Understanding ('MoU') and based thereupon, an Arbitrator was appointed by it without providing any opportunity to the petitioner.
9. An award was passed by the Arbitrator on 02.09.2015, whereagainst the petitioner filed objections under Section 34 of the Arbitration and Conciliation Act, 1996 ('the Act of 1996'); the same were rejected on 09.05.2022, against which, an appeal under Section 37 of the Act was filed, which was dismissed by this Court on the ground of delay.

10. It is further submitted that during pendency of the execution case, objections were filed by the petitioner that *ex-parte* award was invalid, MoU was also a fraudulent exercise and that unilateral appointment of Arbitrator was *de hors* the provisions of law. Submission has been made that without considering the said objections, the executing court has passed the order impugned and though possession in pursuance of the order impugned has been delivered to the purchaser, since entire proceedings of execution are under challenge, the same be set aside.

11. I have considered the submissions made.

12. Admittedly, revisionist did not deliver possession to the purchaser while executing the sale deed. The same led the respondent to invoke arbitration clause based upon some MoU. The petitioner did not participate in arbitral proceedings and his absence is recorded at many places in award which was passed in 2015. The operative portion of the award directs the petitioner to hand over the property in safe and habitable condition to the claimant i.e. decree holder with some more directions in monetary terms.

13. Against the said order, the petitioner has already availed remedy under Section 34 of the Act of 1966, which was rejected, against which, Appeal No.54 of 2022 was also dismissed by the Division Bench of this Court on 08.08.2022.

14. Admittedly, the said order has not been further assailed and, therefore, there was no factual or legal impediment in executing the award as it is.

15. Insofar as the submissions made that unilateral appointment of Arbitrator was invalid or that the Arbitrator was incapacitated in any manner, a perusal of Section 34(2)(a)(i) and (iii) clearly indicates that these are the grounds on which, an award can be objected to under Section 34.

16. Once the said objections have been dismissed in 2022 and the order has been upheld in appeal by this Court, in the opinion of the Court, the same pleas cannot be permitted to be raised in execution proceedings.

17. It is well-settled that executing court cannot go behind the decree and the statutory frame of the Act is like this that on limited pleas, award can be challenged. Once all the statutory remedies stand exhausted and,

further, possession of the property, has already been handed over to the decree holder, even if, there are some factual aspects that might be involved, the same are not sufficient to exercise revisional power of this Court, which would run contrary to the affirmation of the statutory award upto this Court.

18. Even if, after delivery of possession, damages part has not yet been satisfied, the same being part of the execution of the award which has attained finality upto this Court four years ago, there cannot be a second inning on the same pleas which would go beyond the statutory framework of the Act of 1996.

19. For all the aforesaid reasons, this Court is not inclined to grant any relief to the revisionist.

20. The revision has no merit; the same is, therefore, **dismissed**.

(Kshitij Shailendra,J.)

June 4, 2026
Jyotsana