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# Scope of Referral Court's Jurisdiction as to Existence of Arbitration Agreement – Magic Eye Developers' Case

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## 1. Introduction

1.1 The Supreme Court of India (SC) vide its judgment dated 12.05.2023 in the case of *Magic Eye Developers Pvt. Ltd. v. M/s. Green Edge Infrastructure Pvt. Ltd. & Ors. Etc. 2023 SCC OnLine SC 620* held that the Referral Court exercising jurisdiction under section 11(6) of the Arbitration and Conciliation Act, 1996 (**Arbitration Act**), rather than leaving it open for the Arbitral Tribunal to decide the existence and validity of the arbitration agreement, must make a conclusive decision on the same.

1.2 The Division Bench of the SC, in this ruling noted that if the Referral Court leaves it open for the Arbitral Tribunal to decide on existence and validity of the arbitration agreement, the same will result into lack in “exercise of power” by the Referral Court and will be contrary to section 11(6A) of the Arbitration Act.

1.3 The present Appeal before the SC was filed by M/s. Magic Eye Developers Pvt. Ltd. (**Appellant**) against the order passed by the Hon'ble High Court of Delhi (**Delhi High Court**) wherein the Delhi High Court had referred the matter for arbitration while leaving the question of existence of arbitration agreement open to be decided by the Arbitral Tribunal.

## 2. Brief Facts

2.1 The Appellant entered into four agreements namely, SHA-1, SHA-2, MOU-1 and MOU-2 with M/s. Green Edge Infrastructure Pvt. Ltd. (**Respondent**). A dispute between the Appellant and the Respondent arose under MOU-2, and the Respondent approached the Delhi High Court for appointment of an arbitrator.

2.2 The Appellant argued that MOU-2 did not have an arbitration clause and thus the dispute could not be referred to arbitration. On the other hand, it was the case of the Respondents that all the other three agreements, which contain arbitration agreement, are inter-

connected/interlinked with MOU-2 and therefore, they contested that all the four agreements must be read together.

2.3 Aligning with the plea of the Respondents, the Referral Court i.e., Delhi High Court by referring to the SC judgment in the case *Vidya Drolia & ors. v. Durga Trading Corporation, (2021) 2 SCC 1*, and considering the complexity of the matter, had referred the issue regarding the arbitrability of the dispute to be decided by the Arbitral Tribunal.

2.4 The order passed by the Delhi High Court referring the matter to arbitration without deciding upon the issue of existence of arbitration agreement was under challenge in the present appeal before the SC.

## 3. Issue(s)

3.1 The issue posed for consideration before the SC was to decide upon the jurisdiction of the Referral Court under section 11 (6) of the Arbitration Act when the issue of existence and validity of an arbitration agreement is raised before it.

## 4. Section 11 (6) and (6A) of the Arbitration Act

4.1 Section 11 of the Arbitration Act deals with the appointment of arbitrators, and it plays a significant role in ensuring the smooth initiation of arbitration proceedings. The Arbitration Act provides a limited jurisdiction to the Referral Court at the pre-referral stage, which is governed by section 11(6) of the Arbitration Act.

4.2 A significant impact on the Referral Court's exercise of jurisdiction under section 11 of the Arbitration Act was brought through the Arbitration and Conciliation (Amendment) Act, 2015 (**Arbitration Amendment Act**), through which section 11 (6A) was included, which confined the examination by the Referral Court only to the extent of existence of an arbitration agreement.

## 5. Judgment & Discussion

- 5.1 That post insertion of section 11 (6A) in the Arbitration Act, the jurisdiction of the Court is limited to examining the existence of arbitration agreement between parties, and “nothing more, nothing less”.
- 5.2 The Hon’ble Bench noted that it is a settled position that there are two set of inquiries to be carried out under pre-referral jurisdiction and bifurcated them as a primary enquiry and a secondary inquiry. Primary inquiry is with respect to the existence and validity of the arbitration agreement; and Secondary inquiry, is in relation to non-arbitrability of the dispute.
- 5.3 Furthermore, the SC clearly set out that the primary inquiry and secondary inquiry are different and distinct. As far as primary inquiry is concerned, i.e., the inquiry into existence and validity of the arbitration agreement, the Referral Court must conclusively and finally decide the same at the pre-referral stage itself, as it goes to the root of the matter. Whereas in the Secondary inquiry, i.e., the inquiry into non-arbitrability of the dispute, the Referral Court jurisdiction is limited to making a *prima facie* assessment without having to decide it conclusively.
- 5.4 To further support the rationale, the SC relied on its judgment in the case of *N.N. Global Mercantile Private Limited Vs. Indo Unique Flame Ltd. and Ors., 2023 SCC Online SC 495* wherein the Constitution Bench, in relation to Referral Court’s jurisdiction under section 11 (6A) of the Arbitration Act, specifically observed that the intention behind insertion of the said clause is to confine the jurisdiction of the Referral Court acting under section 11 of the Arbitration Act to the extent of examining and ascertaining the existence of an arbitration agreement.
- 5.5 Thus, the Division Bench held that when the issue regarding existence and validity of the arbitration agreement is raised before a Referral Court at the pre-referral stage, then if the Referral Court does not decide it and leaves it open for the Arbitral Tribunal to decide, the same will be contrary to section 11 (6A) of the Arbitration Act.
- 5.6 In relation to the case at hand, SC observed that it appears that the Referral Court has left the issue of existence and validity of the arbitration agreement open to be decided by the Arbitral Tribunal. Thus, SC held that the Referral Court has not decided the issue conclusively and finally. Therefore, SC set aside the order passed by the Delhi High Court and remitted back the matter to be decided afresh to decide issue as to existence of arbitration agreement conclusively and finally.

## 6. Conclusion

This judgment reiterated the scope of pre-referral jurisdiction of the Referral Court, which although narrow but inheres a two-limb test/two inquiries. *First*, in relation to the existence and validity of an arbitration agreement binding the parties for arbitration, which has to be conclusively and finally decided. *Second*, adjudication of arbitrability of the dispute, but only to the extent of a *prima facie* examination. It is however crucial that the adjudication of arbitrability of the dispute is also conclusively and finally decided by the Referral Court, as the general practice and tendency of the Tribunal is such that when an issue of arbitrability of the dispute is brought as a preliminary issue before the Arbitral Tribunal under section 16 of the Arbitration Act, the same is not decided in a preliminary manner and is instead decided at the time of conclusion of the proceedings, which defeats the whole purpose of bringing such issue as a preliminary one. Further, if such issue is decided after final hearing of the arbitration proceedings and the Tribunal concludes that the dispute was not arbitrable in the first place, it costs parties time as well as money when the same could have been easily avoided by deciding the issue at the preliminary stage. It is thus necessary that the issue of arbitrability of the dispute is also decided conclusively and finally by the Referral Court and not left for the Tribunal to decide upon.

A copy of the judgment is annexed hereto at **page 3 to 8**.

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2J

(BEFORE M.R. SHAH AND C.T. RAVIKUMAR, JJ.)

MAGIC EYE DEVELOPERS  
PRIVATE LIMITED

.. Appellant;

*Versus*

GREEN EDGE INFRASTRUCTURE  
PRIVATE LIMITED AND OTHERS

.. Respondents.

Civil Appeals Nos. 3634-37 of 2023<sup>†</sup>, decided on May 12, 2023

**Arbitration and Conciliation Act, 1996 — Ss. 11 & 8 and Ss. 11(6) & 11(6-A) — Jurisdiction of Referral Court at pre-referral stage — Scope of — Matters that *may be*, and matters that *must be* determined by the Court — Determination of existence and validity of arbitration clause — Necessity of — Principles reiterated**

— Held, pre-referral jurisdiction of the court under S. 11(6) is very narrow and inheres two inquiries — (i) The primary inquiry is about the existence and the validity of an arbitration agreement, which also includes an inquiry as to the parties to the agreement and the applicant's privity to the said agreement — (ii) The secondary inquiry that may arise at the reference stage itself is with respect to the non-arbitrability of the dispute — Held, so far as the first issue with respect to the existence and the validity of an arbitration agreement is concerned, as the same goes to the root of the matter, the same has to be conclusively decided by the Referral Court at the referral stage itself — Further, if the dispute/issue with respect to the existence and validity of an arbitration agreement is not conclusively and finally decided by the Referral Court while exercising the pre-referral jurisdiction under S. 11(6) and it is left to the Arbitral Tribunal, it will be contrary to S. 11(6-A)

— Before High Court the appellant had specifically raised an objection with regard to the existence of an arbitration agreement/clause — It was the case on behalf of the appellant that the dispute revolved entirely around MOU-2 which did not contain the arbitration clause — While, it was the case on behalf of the contesting respondent-original applicant that other agreement(s) i.e. SHA-1, SHA-2 and MOU-1 were interlinked/interconnected with MOU-2 which contained the arbitration clause/agreement and therefore, all the said agreements were required to be read along with MOU-2 — Held, the Referral Court had not pronounced anything finally on the existence and validity of the arbitration agreement which ought to have been done by the Referral Court — In the present case, matter remitted back to High Court/Referral Court to decide the respective arbitration petitions afresh (Paras 7 to 17)

*N.N. Global Mercantile (P) Ltd. v. Indo Unique Flame Ltd.*, (2023) 7 SCC 1; *Vidya Drolia v. Durga Trading Corpn.*, (2021) 2 SCC 1 : (2021) 1 SCC (Civ) 549; *NTPC Ltd. v. SPML Infra Ltd.*, (2023) 9 SCC 385 : 2023 SCC OnLine SC 389, followed

<sup>†</sup> Arising out of SLPs (C) Nos. 18339-42 of 2021. Arising from the Judgment and Order in *Green Edge Infrastructure (P) Ltd. v. Magic Eye Developers (P) Ltd.*, 2021 SCC OnLine Del 2656 (Delhi High Court, ARB Petition No. 347 of 2019, dt. 25-3-2021) [Reversed]

MAGIC EYE DEVELOPERS (P) LTD. v. GREEN EDGE  
INFRASTRUCTURE (P) LTD. (*M.R. Shah, J.*) 51

- Chloro Controls India (P) Ltd. v. Severn Trent Water Purification Inc.*, (2013) 1 SCC 641 : (2013) 1 SCC (Civ) 689; *Olympus Superstructures (P) Ltd. v. Meena Vijay Khetan*, (1999) 5 SCC 651, *considered*
- Green Edge Infrastructure (P) Ltd. v. Magic Eye Developers (P) Ltd.*, 2021 SCC OnLine Del 2656, *reversed*

VN-D/70073/CV

Advocates who appeared in this case :

- Preetesh Kapur*, Senior Advocate [Shaunak Kashyap, Ms Nistha Gupta and M/s Mitter & Mitter Co. (Advocate-on-Record), Advocates], for the Appellant;  
*Neeraj Kishan Kaul*, Senior Advocate [Ms Rooh-e-hina Dua (Advocate-on-Record), Advocate], for the Respondents.

**Chronological list of cases cited**

- |   | <i>on page(s)</i>                         |
|---|---|
| 1. (2023) 9 SCC 385 : 2023 SCC OnLine SC 389, <i>NTPC Ltd. v. SPML Infra Ltd.</i>   | 53a-b, 54b-c                              |
| 2. (2023) 7 SCC 1, <i>N.N. Global Mercantile (P) Ltd. v. Indo Unique Flame Ltd.</i>   | 52g, 54e-f                                |
| 3. (2021) 2 SCC 1 : (2021) 1 SCC (Civ) 549, <i>Vidya Drolia v. Durga Trading Corpn.</i>                                     | 52a, 52d-e, 53b, 54c-d                    |
| 4. 2021 SCC OnLine Del 2656, <i>Green Edge Infrastructure (P) Ltd. v. Magic Eye Developers (P) Ltd. (reversed)</i>          | 51e, 52a, 53c-d, 55a, 55a-b, 55b-c, 55d-e |
| 5. (2013) 1 SCC 641 : (2013) 1 SCC (Civ) 689, <i>Chloro Controls India (P) Ltd. v. Severn Trent Water Purification Inc.</i> | 53e, 55c-d                                |
| 6. (1999) 5 SCC 651, <i>Olympus Superstructures (P) Ltd. v. Meena Vijay Khetan</i>  | 53e, 55d                                  |

The Judgment of the Court was delivered by

- M.R. SHAH, J.**— Feeling aggrieved and dissatisfied with the impugned common judgment and order<sup>1</sup> passed by the High Court of Delhi at New Delhi in respective arbitration petitions, by which, the High Court has referred the disputes for arbitration and has appointed the sole arbitrator, the original opponent — Magic Eye Developers Pvt. Ltd. has preferred the present appeals.

- 2.** The issue involved in the present appeals is as such in a very narrow compass, namely, pre-referral jurisdiction of the Court under Section 11(6) of the Arbitration and Conciliation Amendment Act, 2015.

- 3.** At the outset, it is required to be noted that before the High Court the appellant herein specifically raised an objection with regard to the existence of an arbitration agreement/clause. It was the case on behalf of the appellant that the dispute revolves entirely around MOU-2 which does not contain the arbitration clause. However, on the other hand, it was the case on behalf of the contesting respondent herein original applicant that other agreement(s) i.e. SHA-1, SHA-2 and MOU-1 are interlinked/interconnected with MOU-2 which contained the arbitration clause/agreement and therefore, all the aforesaid agreements are required to be read along with MOU-2.

<sup>1</sup> *Green Edge Infrastructure (P) Ltd. v. Magic Eye Developers (P) Ltd.*, 2021 SCC OnLine Del 2656

4. By the impugned common judgment and order<sup>1</sup> and relying upon the decision of this Court in *Vidya Drolia v. Durga Trading Corpn.*<sup>2</sup> and by observing that the arbitrability of the dispute raised, vis-à-vis Arbitration Clause 27.3 of SHA-1, is an involved issue and the said issue can be addressed by the learned Arbitral Tribunal, given the complexity of the transaction involved, the High Court has referred the disputes for arbitration and has appointed the arbitrator.

5. Shri Preetesh Kapur, learned Senior Advocate has appeared on behalf of the appellant and Shri Neeraj Kishan Kaul, learned Senior Advocate has appeared on behalf of the contesting respondent original applicant.

5.1. Shri Preetesh Kapur, learned Senior Advocate appearing on behalf of the appellant has taken us to Section 11(6-A) of the Arbitration Act and has submitted that post Arbitration and Conciliation Amendment Act, 2015 by which sub-section (6-A) has been added to Section 11 of the Arbitration Act, while deciding the application under Section 11(6) of the Act and while exercising the pre-referral jurisdiction, the Court has to consider and examine the existence of an arbitration agreement and it should not be left to the Arbitral Tribunal.

5.2. It is vehemently submitted that there is a difference and distinction between the existence and validity of an arbitration clause and non-arbitrability of the dispute. It is submitted that so far as the issue with respect to the existence and validity of an arbitration agreement at the stage of pre-referral jurisdiction under Section 11(6) of the Act is concerned, the Court has to give a specific finding finally on such issue and such an issue should not be left to the Arbitral Tribunal. It is submitted that therefore, the High Court has misapplied and/or misread the decision of this Court in *Vidya Drolia*<sup>2</sup>.

5.3. It is vehemently submitted by Shri Kapur, learned Senior Advocate appearing on behalf of the appellant that as such it is the duty cast upon the Referral Court to protect the parties from being forced to arbitrate when the matter is demonstrably non-arbitrable. It is submitted that the dispute with respect to the existence and validity of an arbitration agreement/clause goes to the root of the matter and has to be decided first by the Referral Court. It is submitted that if ultimately it is held that there is no existence of an arbitration agreement and/or there is no valid arbitration agreement and the said issue is left to be decided by the Arbitral Tribunal in that case the entire exercise by the Arbitral Tribunal will be futile. It is submitted that therefore in order to prevent wastage of public and private resources and taking into consideration Section 11(6-A) of the Act, the Referral Court has to finally conclude the issue with respect to the existence and validity of the arbitration agreement. Reliance is placed upon the recent decision of the Constitution Bench of this Court in *N.N. Global Mercantile (P) Ltd. v. Indo Unique Flame Ltd.*<sup>3</sup> It is submitted that in the said decision it is observed and held by this Court that sans an agreement, there cannot be a reference to arbitration. It is submitted that it is further held that an arbitration agreement must satisfy the requirements of Section 7(1). It

1 *Green Edge Infrastructure (P) Ltd. v. Magic Eye Developers (P) Ltd.*, 2021 SCC OnLine Del 2656

2 (2021) 2 SCC 1 : (2021) 1 SCC (Civ) 549

3 (2023) 7 SCC 1

MAGIC EYE DEVELOPERS (P) LTD. v. GREEN EDGE  
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a is submitted that it is further observed and held that the true intention behind the insertion of Section 11(6-A) in the Act was to confine the Court, acting under Section 11, to examine and ascertain about the existence of an arbitration agreement.

5.4. Shri Kapur, learned Senior Advocate appearing on behalf of the appellant has also relied upon the recent decision of this Court in *NTPC Ltd. v. SPML Infra Ltd.*<sup>4</sup> (paras 19, 25 & 28).

b 6. While opposing the present appeals, Shri Neeraj Kishan Kaul, learned Senior Advocate appearing on behalf of the original applicant has vehemently submitted that in the facts and circumstances of the case, the High Court has rightly followed the decision of this Court in *Vidya Drolia*<sup>2</sup> and has rightly referred the disputes between the parties to the arbitration.

c 6.1. It is vehemently submitted by Shri Kaul, learned Senior Advocate appearing on behalf of the original applicant that in the present case all the agreements, namely, SHA-1, SHA-2 and MOU-1 are required to be read along with MOU-2. It is submitted that the agreements other than MOU-2 do contain the arbitration clause, more particularly, Clause 27.3 in SHA-1. It is submitted that the High Court in SCC OnLine Del para 23 has specifically observed<sup>1</sup> and opined that the four agreements are indisputably interconnected. It is submitted that once there is a specific finding given that all the agreements are interconnected, the agreement in which there is an arbitration clause has to be read along with MOU-2 and therefore, the High Court has rightly referred the disputes to the arbitration.

d 6.2. Shri Kaul, learned Senior Advocate appearing on behalf of the original applicant has heavily relied upon the decision of this Court in *Chloro Controls India (P) Ltd. v. Severn Trent Water Purification Inc.*<sup>5</sup> as well as the decision of this Court in *Olympus Superstructures (P) Ltd. v. Meena Vijay Khetan*<sup>6</sup> in support of his submission that all the four agreements are interconnected and therefore, are required to be read altogether.

e 7. Heard. The short question which is posed for the consideration of this Court is, the jurisdiction of the Referral Court at pre-referral stage when the issue with respect to the existence and validity of an arbitration agreement is raised.

f 8. While considering the aforesaid issue, Section 11(6-A) of the Arbitration Act which has been added through the Arbitration and Conciliation Amendment Act, 2015 is required to be read, which reads as follows:

g “11. (6-A) The Supreme Court or, as the case may be, the High Court, while considering any application under sub-section (4) or sub-section (5) or sub-section (6), shall, notwithstanding any judgment, decree or order of any court, *confine to the examination of the existence of an arbitration agreement.*” (emphasis supplied)

4 (2023) 9 SCC 385 : 2023 SCC OnLine SC 389

2 *Vidya Drolia v. Durga Trading Corpn.*, (2021) 2 SCC 1 : (2021) 1 SCC (Civ) 549

h 1 *Green Edge Infrastructure (P) Ltd. v. Magic Eye Developers (P) Ltd.*, 2021 SCC OnLine Del 2656

5 (2013) 1 SCC 641 : (2013) 1 SCC (Civ) 689

6 (1999) 5 SCC 651

9. Thus, post Arbitration and Conciliation Amendment Act, 2015, the jurisdiction of the court under Section 11(6) of the Act is limited to examining whether an arbitration agreement exists between the parties — “nothing more, nothing less”. Thus, as per Section 11(6-A) of the Act, it is the duty cast upon the Referral Court to consider the dispute/issue with respect to the existence of an arbitration agreement. a

10. At this stage, it is required to be noted that as per the settled position of law, pre-referral jurisdiction of the court under Section 11(6) of the Arbitration Act is very narrow and inheres two inquiries. The primary inquiry is about the existence and the validity of an arbitration agreement, which also includes an inquiry as to the parties to the agreement and the applicant’s privity to the said agreement. The said matter requires a thorough examination by the Referral Court (para 25 of the decision in *NTPC*<sup>4</sup>). The secondary inquiry that may arise at the reference stage itself is with respect to the non-arbitrability of the dispute. Both are different and distinct. b

11. So far as the first issue with respect to the existence and the validity of an arbitration agreement is concerned, as the same goes to the root of the matter, the same has to be conclusively decided by the Referral Court at the referral stage itself. Now, so far as the non-arbitrability of the dispute is concerned, even as per the law laid down by this Court in *Vidya Drolia*<sup>2</sup>, the court at pre-referral stage and while examining the jurisdiction under Section 11(6) of the Act may even consider prima facie examining the arbitrability of claims. As observed, the prima facie review at the reference stage is to cut the deadwood and trim off the side branches in straightforward cases where dismissal is barefaced and pellucid and when on the facts and law the litigation must stop at the first stage. c

12. However, so far as the dispute with respect to the existence and validity of an arbitration agreement is concerned and when the same is raised at pre-referral stage, the Referral Court has to decide the said issue conclusively and finally and should not leave the said issue to be determined by the Arbitral Tribunal. The reason is that the issue with respect to the existence and validity of an arbitration agreement goes to the root of the matter. d

13. As observed by the Constitution Bench in *N.N. Global Mercantile*<sup>3</sup> sans an agreement, there cannot be any reference to the arbitration. In the said decision this Court has also specifically observed and held that the intention behind the insertion of Section 11(6-A) in the Act was to confine the Court, acting under Section 11, to examine and ascertain about the existence of an arbitration agreement. We are of the opinion that therefore, if the dispute/issue with respect to the existence and validity of an arbitration agreement is not conclusively and finally decided by the Referral Court while exercising the pre-referral jurisdiction under Section 11(6) and it is left to the Arbitral Tribunal, it will be contrary to Section 11(6-A) of the Arbitration Act. It is the duty of the Referral Court to decide the said issue first conclusively to protect the parties from being forced to arbitrate when there does not exist any arbitration agreement and/or when there is no valid arbitration agreement at all. e

4 *NTPC Ltd. v. SPML Infra Ltd.*, (2023) 9 SCC 385 : 2023 SCC OnLine SC 389 f

2 *Vidya Drolia v. Durga Trading Corpn.*, (2021) 2 SCC 1 : (2021) 1 SCC (Civ) 549 g

3 *N.N. Global Mercantile (P) Ltd. v. Indo Unique Flame Ltd.*, (2023) 7 SCC 1 h

MAGIC EYE DEVELOPERS (P) LTD. v. GREEN EDGE  
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**14.** From the impugned common order<sup>1</sup> passed by the Referral Court, it appears from the observations made in SCC OnLine Del paras 12 to 15 that the Referral Court<sup>1</sup> has not decided the said issue conclusively and finally; and the Referral Court has left it to be decided by the Arbitral Tribunal. The submission on behalf of the contesting respondent relying upon some observations made in para 23 of the impugned order<sup>1</sup> that the Referral Court<sup>1</sup> has in fact opined that the four agreements are indisputably interconnected is concerned, it is required to be noted that the observations made in para 23 are to be read along with the prayer of the appellant to appoint different arbitrator(s). However, in SCC OnLine Del para 14, it is specifically observed by the Referral Court<sup>1</sup> that “this Court cannot finally pronounce one way or the other on this aspect”. In SCC OnLine Del para 15 also, it is specifically observed that the arbitrability of the dispute raised vis-à-vis Arbitration Clause 27.3 of SHA-1, is an involved issue, can be addressed by the learned Arbitral Tribunal. Thus, the Referral Court<sup>1</sup> has not pronounced anything finally on the existence and validity of the arbitration agreement which ought to have been done by the Referral Court.

**15.** Now, so far as the submission made by Shri Kaul, learned Senior Advocate, that all the agreements being interlinked and interconnected and reliance placed on the decision of this Court in *Chloro Controls*<sup>5</sup> and *Olympus Superstructures*<sup>6</sup> is concerned, we do not propose to go into the merits as the same has to be considered by the Referral Court. We have not even permitted the learned counsel appearing on behalf of the appellant to make submission on merits.

**16.** In view of the above and for the reasons stated above, the impugned common judgment and order<sup>1</sup> passed by the High Court in respective arbitration petitions, referring the disputes to arbitration is hereby quashed and set aside. The matter is remitted back to the High Court/Referral Court to decide the respective arbitration petitions afresh and in light of the observations made hereinabove and to decide the issue conclusively and finally with respect to the existence and validity of the arbitration agreement. The aforesaid exercise to be completed within a period of three months from the date of receipt of the present order.

**17.** However, it is observed that we have not expressed anything on merits on the existence and validity of the arbitration agreement and on the four agreements being interconnected/interlinked. It is ultimately for the High Court/Referral Court to take an appropriate decision in accordance with law and on its own merits. Present appeals are accordingly allowed to the aforesaid extent. In the facts and circumstances of the case, there shall be no order as to costs.

<sup>1</sup> *Green Edge Infrastructure (P) Ltd. v. Magic Eye Developers (P) Ltd.*, 2021 SCC OnLine Del 2656  
<sup>5</sup> *Chloro Controls India (P) Ltd. v. Severn Trent Water Purification Inc.*, (2013) 1 SCC 641 : (2013) 1 SCC (Civ) 689  
<sup>6</sup> *Olympus Superstructures (P) Ltd. v. Meena Vijay Khetan*, (1999) 5 SCC 651