

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO(S). OF 2026
[@ SLP (C) NOS. 13958-13959 OF 2026]**

**DEVI SHAKUNTALA THAKRAL CHARITABLE
FOUNDATION**

Appellant(s)

VERSUS

M/S. TIARA INFRASTRUCTURE LTD.

Respondent(s)

O R D E R

1. Leave granted.

2. The present appeals by way of special leave arise out of the orders dated 06.02.2026 and 16.02.2026 passed by the High Court while exercising jurisdiction under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act'), and constituting the Arbitral Tribunal.

3. We have heard Ms. Ranu Purohit, learned counsel appearing for the appellant and Mr. Vishesh Vijay Kalra,

learned counsel appearing for the respondent assisted by Ms. Sonia Sharma.

4. The appellant is before us on the ground that the High Court could not have appointed an arbitrator under Section 11 as the same is clearly barred by limitation.

5. Short facts necessary for disposal of the present appeals are as follows. Appellant and the respondent entered into an agreement for certain construction work which was to be completed within a period of 12 months from the date of the contract. Clause 21 of the agreement is the arbitration clause for resolution of disputes between the parties. Construction could not be completed within 12 months and further when certain other disputes arose between the parties, respondent invoked the arbitration clause on 13.02.2010 and when appellant also gave his consent, parties appointed the Arbitrator under Clause 21, and he commenced his proceedings on 06.03.2010.

6. Apart from the commencement of arbitral proceedings on 06.03.2010, there is just one other letter from the

arbitrator (undated) directing the parties to send their responses on or before 17.08.2010.

7. On 08.03.2010, the respondent filed an application under Section 9 of the Act seeking certain interim directions and the said proceedings, with which we are not concerned, continued for some time, during which time the Additional Judge and also the High Court in Section 37 appeal passed certain orders.

8. After about eight years, i.e. on 08.04.2018, the respondent woke up and sent an e-mail to the arbitrator enquiring about the stage of the proceedings. When there was no reply from the arbitrator, a formal notice for fresh arbitration was issued on 31.05.2019 and this was followed up with filing of an application under Section 11 of the Act for appointment of a new arbitrator.

9. The appellant opposed the application under Section 11 on the ground that an arbitrator was appointed way back in 2010 and that a second application is not maintainable. Alternatively, the appellant argued that if the present application is treated as a fresh application, it is clearly barred by limitation.

10. As indicated above, by the orders impugned before us, the High Court appointed a sole arbitrator, thus the present appeal.

11. We are of the opinion that the High Court committed a serious error in entertaining the application under Section 11. This is a case where an arbitrator has already been appointed way back on 06.03.2010, and he commenced hearing, but nothing was heard from him thereafter. The respondent should have been diligent to ask for substitution of the arbitrator immediately after knowing that the existing arbitrator had virtually abandoned the proceedings, which he did in 2010 itself. It is only in January 2020, virtually after 10 years, that the present application under Section 11 has been filed.

12. By the order impugned before us, the High Court records that though the previous arbitration commenced in 2010, the Section 9 proceedings before the District Court continued for a long period. The pendency of proceedings before the District Court has no bearing on the present application under Section 11 for appointing a new arbitrator. If the High Court was under the impression

that the old arbitration is continuing as appointed arbitrator has only abandoned the proceedings, it should have then directed the respondent to seek substitution of the arbitrator. High Court has conflated the issues of substitution, a non-existing situation with the plea for appointment of new arbitrator, for which alone the application under Section 11 is now filed. The relevant portion of the judgment of the High Court is as follows:

"12. The limitation therefore would run only upto 2010 when the Arbitrator had entered into terms of reference. He after fixing a few dates thereafter did not do anything in the matter. In the considered opinion of this Court, limitation would not run after the year 2010 and would run only upto the year 2010.

13. At this distance of time, it seems to be of no utility to direct the Architect to carry out and conclude the arbitration proceedings and therefore, it is a fit case where the sole Arbitrator should be appointed by this Court by holding that the mandate of the Arbitrator appointed by agreement of parties has got automatically revoked by conduct of inaction of the Arbitrator himself.

14. Thus, this Court proposes to appoint Shri Justice Dinesh Kumar Paliwal, Former Judge, Madhya Pradesh High Court as sole Arbitrator to decide the disputes between the parties."

13. We are not in agreement with the approach adopted by the High Court. Even if the limitation is to commence from 2010, the filing of the present application on 25.01.2020 is clearly barred by limitation.

14. In view of the above, appeals are allowed, the judgment and order passed by the High Court is set aside.

15. There shall be no order as to costs.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ALOK ARADHE]

NEW DELHI;
SEPTEMBER 01, 2026

ITEM NO.21

COURT NO.5

SECTION IV-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 13958-13959/2026

[Arising out of impugned final judgment and order dated 06-02-2026 in AC No. 18/2020 16-02-2026 in AC No. 18/2020 passed by the High Court of Madhya Pradesh Principal Seat at Jabalpur]

DEVI SHAKUNTALA THAKRAL CHARITABLE FOUNDATION Petitioner(s)

VERSUS

M/S. TIARA INFRASTRUCTURE LTD. Respondent(s)

IA No. 119031/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 119032/2026 - EXEMPTION FROM FILING O.T.

IA No. 123525/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 01-09-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ALOK ARADHE

For Petitioner(s) :Ms. Ranu Purohit, AOR
Ms. Reet Babbar, Adv.

For Respondent(s) :Mr. Vishesh Vijay Kalra, AOR
Mr. Atul Neema, Adv.
Ms. Sonia Sharma, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The Civil Appeals are allowed in terms of the Signed Order.
3. Pending application(s), if any, shall stand disposed of.

(KAPIL TANDON)
COURT MASTER (SH)

(NIDHI WASON)
ASSISTANT REGISTRAR

(Signed Order is placed on the file)