

[2026 LiveLaw \(SC\) 393](#)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
**S.V.N. BHATTI; J., PRASANNA B. VARALE; J.**  
SPECIAL LEAVE PETITION (CIVIL) NO. 23869 OF 2023; April 13, 2026

**VPS HEALTHCARE PRIVATE LIMITED AND ANOTHER**  
*versus*  
**PRABHAT KUMAR SRIVASTAVA AND ANOTHER**

**Arbitration and Conciliation Act, 1996 – Section 36 – Enforcement of Consent Award – Interpretation of Indemnity Clauses – Dispute regarding the timing of an indemnifier's obligation to discharge liability - The Supreme Court held that where a Consent Award contains an absolute obligation to "ensure" that no liability is recovered from the award-holder by a "Forum," such obligation is triggered as soon as a liability is crystallised and recovery is sought, regardless of whether a further appeal is pending .**

**Contractual Interpretation – Literal vs. Purposive Construction – Rule of Every Part – Supreme Court emphasized that every limb of a contract must be given meaning to avoid rendering any part otiose - A performance timeline for an "extreme scenario" (confirmation by the Highest Court of Appeal) cannot be used to negate an unconditional obligation to protect a party from recovery at earlier stages of litigation - Purposive construction is unavailable when a plain, literal reading of all limbs together ensures an immediate enforceable obligation.**

**Contract of Indemnity – Absolute Obligation – Distinguished between a contingent indemnity and an absolute obligation. Where a promisor incurs an absolute obligation (indicated by terms like "ensure"), it can be enforced without awaiting actual loss or the exhaustion of all appellate remedies - The impugned judgment of the High Court was set aside, and the Promoters were granted 30 days to deposit ₹15,86,17,808/- for the benefit of the Appellants. [Relied on *Khetarpal Amarnath v. Madhukar Pictures*, 1955 SCC OnLine Bom 73; Paras 16-28]**

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*For Respondent(s) Ms. Diya Kapur, Sr. Adv. Mr. Rohit Vats, Adv. Mr. Himanshu Bhandari, Adv. Ms. Aanchal Basur, Adv. Mr. Daya Krishan Sharma, AOR*

**J U D G M E N T**

**S.V.N. BHATTI, J.**

1. Leave granted.
2. VPS Healthcare Private Limited and Medeor Hospitals Limited are the Appellants. Prabhat Kumar Srivastava and Rishi Srivastava are the Respondents. A third-party M/S Ernst and Young LLP, Gurugram, is another entity to which a reference is made in the Judgment. For convenience, we refer to the Appellants, Respondents and the third party as VPS/Medeor, Promoters and EY, respectively.
3. The Civil Appeal arises from the Judgment dated 01.05.2023, in OMP (ENF.) (COMM.) 184/2022 in the High Court of Delhi at New Delhi. The Impugned Judgment deferred the execution of the Consent Award dated 01.03.2019, which was made by the Singapore International Arbitration Centre (hereinafter "SIAC") in Arbitration No. 093/2017

between VPS/Medeor and the Promoters. The circumstances leading to the enforcement of the Award dated 01.03.2019 in Arbitration No. 093/2017 have been set out in detail in the impugned Judgment. Before capturing the issues in the subject Appeal, we refer to a few dates and events.

4. VPS is a Company incorporated under the Companies Act, 1956, having its registered office in Kochi, Kerala. Medeor Hospitals Limited, formerly known as Rockland Hospitals Limited, is a company incorporated under the Companies Act, 1956. Prabhat Srivastava and Rishi Srivastava were the promoters of Rockland Hospitals Limited (now, Medeor).

5. On 11.08.2015, a Professional Services Agreement was entered into between EY and M/S Rockland Hospitals Limited. The Professional Services Agreement is alleged to have been intended to attract a strategic investor/buyer for two of the hospitals run by Rockland Hospitals Limited in New Delhi. On 29.06.2016, VPS and the Promoters of Rockland Hospitals Limited entered into a Share Purchase Agreement to acquire 100% equity of Rockland Hospitals Limited. With the said acquisition, Rockland Hospitals is renamed as Medeor. It is a matter of record that disputes have arisen under the Professional Services Agreement dated 11.08.2015 between EY and Medeor; and also, under the Agreement dated 29.06.2016, between VPS/Medeor and the Promoters. The nature and scope of disputes are not relevant circumstances in the present and are not adverted to.

6. On 02.02.2019, VPS/Medeor entered into a Deed of Compromise with the Promoters. The deed of compromise, intended to give quietus to the disputes between the parties, sets out the terms of the compromise, the subject matter of the disputes, and the mode and manner in which VPS/Medeor contests/settles the disputes. In Arbitration No. 093/2017, on 01.03.2019, SIAC rendered the Consent Award in terms of the Compromise Deed dated 02.02.2019. The operative portion that bears on deciding the maintainability of the Enforcement Petition reads as follows:

**Paragraph 32(a)**

*“From 02.02.2019 (the "Effective Date"), the Respondents undertake and agree to defend/contest at its cost all proceedings detailed in Annexure-I of the Deed of Compromise (as annexed herewith) including legal expenditures on behalf of the First Claimant. The First and Second Claimants will provide all necessary assistance in respect of the said proceedings and also furnish a Power of Attorney in favour of the Respondents and its Legal Counsels to defend the said Proceedings. That in the event the said Proceedings culminate in the Forum imposing any liability on the First Claimant, the Respondents can take all remedies available in law including but not limited to settling a proceeding on behalf of the First Claimant at any juncture and/or filing Appeals/Review etc. on behalf of the First Claimant till the Highest Court of Appeal, however, the Respondents will ensure that no liability in regard to the said litigation is recovered from the First and Second Claimants by the Forum. The Respondents will keep the First Claimant indemnified of the same and ensure that in case any liability is confirmed by the Highest Court of Appeal, the same will be discharged by the Respondents within a period of 30 days.”*

**Annexure I**

“xxx

*5. Claim petition filed by the Ernst & young against the Rockland Hospital in the arbitration bearing ARB. No. 2085/2016 for the claim of Rs. 10 Crores with an interest @ 18% with Effect from 01.07.2016 on the strength of the engagement letter dated 11.05.2015.*

xxx”

7. On 17.08.2021, the dispute between EY and Rockland Hospitals Limited was decided by a majority Award, accepting EY's claim against Rockland Hospitals Limited for the sum of Rs. 10 Crore, with interest at the rate of 9 per cent per annum from the date of the Claim Petition till the date of realisation of the awarded amount. The Award granted costs of Rs. 5,00,000/- in favour of EY. Challenging the Award dated 17.08.2021, Medeor filed OMP (COMM) No. 116/2022 under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as "Arbitration Act"). On 04.03.2022, a stay of execution of the Award dated 17.08.2021 was granted, and the operative portion reads thus:

**"I.A. 3576/2022 (u/ Section 151 of CPC on behalf of the Petitioner seeking exemption from furnishing deposit on filing of appeal)**

*6. The impugned award is in the nature of a money award. Thus, having regard to the provisions under the Code of Civil Procedure, 1908 relating to stay of a money decree, subject to Petitioner depositing the arbitral award amount (principal plus up-to date interest) within four weeks from today, the execution of the impugned award shall remain stayed."*

8. The Promoters, under the Special Power of Attorney dated 11.01.2022, are prosecuting the litigation in terms of the Consent Award dated 01.03.2019. Medeor Hospitals Limited was finally required to deposit the award amount, with interest and costs, as per the impugned Judgment. The liability fastened by the majority Award dated 17.08.2021 is actually the liability of the Promoters in terms of the Consent Award dated 01.03.2019. However, since the case is contested in the name of Medeor, the Judgment Debtor is obligated to deposit Rs. 15,86,17,808/-. The sequel to the above deposit is the enforcement of the Consent Award dated 01.03.2019 by VPS/Medeor against the Promoters.

9. The case of VPS/Medeor is that Paragraph 32(a) of the Consent Award creates an immediate obligation on the Promoters to ensure no liability, whether interim or final, is recovered from VPS/Medeor at any stage of the litigation.

10. The Promoters' resistance to the execution of the Consent Award at this stage is twofold. They contend that their obligation to actually pay or discharge the liability arises only within 30 days after the Highest Court of Appeal has confirmed it. Further, the Promoters argue that any interim orders or deposits required by courts other than the Highest Court of Appeal have not transformed into confirmed liabilities that they must satisfy.

11. The impugned Judgment, for the present, closed the Consent Award and the reasoning is summed up as follows under distinct heads:

**11.1 Rejection of Forum argument:** High Court rejected the promoters' claim that the word forum meant the "Highest Court of Appeal". It ruled that the forum referred to the Body initially imposing liability, in this case, the Arbitral Tribunal that issued the EY Award.

**11.2 Ambiguity in Paragraph 32(a):** The High Court identified a conflict within the provision, in which one part required the promoters to ensure that no liability is recovered from the VPS/Medeor. In contrast, another part stipulated that promoters must discharge liability within 30 days after confirmation by the Highest Court of Appeal. To resolve this ambiguity, the Court viewed the Agreement as a Contract of Indemnity under Sections 124 and 125 of the Indian Contract Act, 1872. (Hereinafter referred to as "Contract Act")

**11.3 Timing of obligation:** It held that while an indemnifier is generally liable as soon as a loss accrues, the specific contractual stipulation here was "clear as noonday". The promoters are only required to discharge the liability after the Highest Court of Appeal confirms it. Because the EY Award was still under challenge (and thus not yet confirmed

by the Highest Court of Appeal), the Court concluded that the Enforcement Petition was premature and lacked merit at this stage.

**11.4 Distinction between litigation categories:** The High Court agreed with the promoters that different categories of legal matters had different payment structures. For tax proceedings (Category 4), a pre-deposit scheme was explicitly mentioned, but no such requirement for immediate deposit was included for the EY arbitration (Category 1).

**11.5 Harmonious construction:** The Court aimed for a “harmonious construction” of all stipulations. It found that the ultimate intent was to protect the Petitioners from final damage, but the specific mechanism agreed upon was payment, only after the Highest Court’s confirmation.

**12.** We have heard learned Counsel Mr. Anirudh Bhatia, for VPS/Medeor, and Senior Counsel Ms. Diya Kapur, for the Promoters.

**13.** For VPS/Medeor, the broad arguments rest on the immediacy of the obligation undertaken by the Promoters.

**13.1** The disputes between VPS/Medeor and the Promoters, under the Share Purchase Agreement dated 29.06.2016, have been negotiated and resolved by the Deed of Compromise dated 02.02.2019. The Deed of Compromise received the imprimatur of SIAC through a Consent Award dated 01.03.2019. The effective date for the parties to discharge the agreed obligations is 02.02.2019. On the date of signing of the Deed of Compromise, and the passing of the Consent Award dated 01.03.2019, the claim of EY for a sum of Rs. 10 Crore was pending against Medeor (previously, Rockland Hospitals Limited). As part of the settlement, the Promoters have agreed to undertake the obligation to defend all the proceedings set out in Annexure-I to the Consent Award dated 01.03.2019. VPS/Medeor has agreed to provide the necessary assistance in these proceedings and to execute a Power of Attorney in favour of the Promoters or their Counsel to defend the cases effectively. The Promoters have been given discretion to either prosecute the litigation up to the Highest Court of Appeal or settle the proceedings at any stage. In the litigation shown in Annexure-I, the Promoters agreed that no liability arising from the specified litigation is to be recovered from VPS/Medeor. Paragraph 32 of the Consent Award further acts as an indemnity contract and undertakes to discharge the liability of VPS/Medeor within 30 days after any liability is confirmed by the Highest Court of Appeal. Adverting to the circumstances, Mr. Anirudh Bhatia argues that Medeor, being a corporate entity, is now under the management of VPS. The Award in favour of EY, dated 17.08.2021, was challenged by the Promoters, representing VPS/Medeor, under Section 34 of the Arbitration Act in OP (COMM) No. 116/2022. Pursuant to its dismissal, an application under Section 37 of the Arbitration Act numbered as Diary No. 1099418 of 2023 is pending before the High Court of Delhi.

**13.2** Consequently, to avoid execution of the Consent Award, Medeor deposited Rs. 15,86,17,808/-. As per the Consent Award dated 01.03.2019, the amount awarded in favour of EY is the liability of the Promoters. The amount claimed by EY against Medeor is agreed to be paid by the Promoters. The amount has been deposited, and against a bank guarantee, EY has also withdrawn the said amount. The Promoters have agreed to answer EY’s claim in the Consent Award dated 01.03.2019. The awarded amount has already been deposited and, in clear commercial understanding, has addressed the agreed liability of the Promoters and the demand to make good the amount deposited by VPS/Medeor. Since it did not yield a result, the present Enforcement Petition in OP No. 184/2022 has been taken up under Section 36 of the Arbitration Act. The High Court, according to him, fell in a serious error in emphasizing the words “the Respondents will

keep the first Claimant indemnified of the same and ensure that in case any liability is confirmed by the Highest Court of Appeal, the same will be discharged by the promoters within a period of 30 days". The Counsel argues that the words "Highest Court of Appeal" should not be read out of context, or should not be construed in such a way that whether the promoters file the appeal or not, the obligation arises only on the confirmation by the Highest Court of Appeal. He argues that the Promoters are now carrying on the litigation at leisurely, on the shoulders of VPS/Medeor, and that the timing of executing the Consent Award is deferred until confirmation by the Highest Court of Appeal. Such a situation defeats the Consent Award of a commercial dispute between VPS/Medeor and the Promoters. The other clause, namely, "however, the Respondents [the Promoters] will ensure no liability regarding the said litigation is recovered from the first and second claimants by the Forum." The impugned Judgment, which accepted VPS/Medeor's argument regarding what constitutes the forum, should not have closed the petition filed for enforcement of the Consent Award.

**13.3** He relies on *Khetarpal Amarnath v. Madhukar Pictures*<sup>1</sup> to demonstrate that Section 125 of the Contract Act should be interpreted to entitle the indemnity holder, i.e., VPS/Medeor, to sue the indemnifier for damages that are yet to arise, as long as the holder can prove a clear and enforceable claim. He thus prays that the impugned Judgment be set aside and that enforcement of the Consent Award dated 01.03.2019 be directed on an immediate basis.

**14.** *Per contra*, Ms. Diya Kapur contends that the High Court has not dismissed the Enforcement Petition but, for right and correct reasons, deferred the enforceability of the Consent Award dated 01.03.2019 until the award receives confirmation from the Highest Court of Appeal.

**14.1** The Promoters have agreed to indemnify VPS/Medeor of the liability they incur for any of the causes of action shown in Annexure-I to the Consent Award dated 01.03.2019. The law governing the enforcement of an indemnity contract is fairly well settled, and VPS/Medeor cannot claim in a manner contrary to the agreed terms between the parties. The applicable paragraph on mutual obligations between the parties is set out in Paragraph 32 of the Consent Award dated 01.03.2019. The said paragraph construed, either literally or through purposive construction, that the enforcement of the Consent Award is deferred till the confirmation of the Award dated 17.08.2021 in favour of EY by the Highest Court of Appeals. Upon confirmation of the Consent Award, the Promoters are obligated to indemnify VPS/Medeor, but not before.

**14.2** She relies on the *Export Credit Guarantee Corporation of India Limited. v. Garg Sons International*,<sup>2</sup> and *Suraj Mal Ram Niwas Oil Mills (Private) Limited v. United India Insurance Company Limited*,<sup>3</sup> for the proposition that the terms of a commercial insurance contract must be strictly construed based on their plain language without adding, deleting, or substituting words, and the rule of *Contra Proferentem* is inapplicable because such commercial clauses are bilateral and mutually agreed upon. She, thereby, prays for the dismissal of the Civil Appeal.

**15.** We have taken note of the rival submissions and perused the record.

**16.** After analysing the impugned Judgment, we capture the following points:

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<sup>1</sup> 1955 SCC OnLine Bom 73

<sup>2</sup> (2014) 1 SCC 686 (Para 10 and 11)

<sup>3</sup> (2010) 10 SCC 567 (Para 23 and 26)

**16.1 Internal self-contradiction in paragraph 42:** The High Court contradicts itself within the same paragraph. It rejects the promoters' argument that "Forum" means only the Highest Court of Appeal by applying the contractual definition. Yet it adopts the promoters' conclusion that liability is payable only after confirmation by the Highest Court of Appeal. This is the conclusion that would flow if "Forum" meant only the Supreme Court. On one hand, the construction of "Forum" is as per the definition in the Compromise Deed; on the other hand, the outcome accepted by the High Court contravenes that conclusion.

**16.2 Reading and applying half of the critical clause:** The High Court interprets Paragraph 32(a) by focusing on the fifth limb of the Paragraph. The fourth limb, i.e., the "Respondents will ensure that no liability regarding the said litigation is recovered from the First and Second Claimants by the Forum", is an unconditional obligation. The phrase "said litigation" refers to the proceedings covered by Annexure-I at every stage, and not just at the Highest Court. By restricting the operative portion to the fifth limb alone, the High Court renders the fourth limb otiose, contrary to the rule that every part of the contract must be given meaning.

**16.3 Conflating a performance timeline with the indemnity trigger:** The third limb, "in case any liability is confirmed by the Highest Court of Appeal, the same will be discharged within a period of 30 days", is understood as a performance clause with a timeline for the extreme scenario where the liability survives all appellate challenges right up to the Supreme Court. The High Court converted this into the only trigger for the Promoters' indemnity obligation. The clause was thus interpreted by keeping a backstop guarantee as the sole operative obligation.

**16.4 Creating a paradox:** The High Court's interpretation produces a paradox. If liability is payable only after confirmation by the Supreme Court, the Promoters can choose not to pursue the appeal to the Supreme Court, so no liability is confirmed against the Promoters. This would render the undertaking under Paragraph 32(a) meaningless. Nullity cannot be the intention of the parties to the Consent Award.

**16.5 Ignoring liability:** The Petitioners had already been directed by the High Court to deposit over Rs. 15 Crore with the Registrar General of the High Court. This deposit itself is a liability, thereby triggering the fourth limb. The High Court allowed the recovery.

**17.** VPS/Medeor are, for all purposes, enforcing the Compromise Deed dated 02.02.2019, which has been transformed into the Consent Award dated 01.03.2019. It is axiomatic that a Consent Decree is a contract between the parties with the Court's seal super-added. A Consent Award is no different from a Consent Decree. The courts are under an obligation to limit their enquiries or interpret the agreed terms except in exceptional cases where enforcement or rejection of the Consent Award is necessary. The Executing Court, in its armchair, poses to itself the fundamental question: has the decree been satisfied or discharged, or is the decree a nullity? The answers to these questions set in motion the execution of a consent decree/award. We may not be understood as laying down a general proposition of law that the objections available under Section 47 of the Code of Civil Procedure, 1908, need not detain a court from conducting an enquiry, or, for that matter, any objection raised to the execution of an award/consent award is not enquired into. The executability of the Consent Award is limited to the clauses executed by the Decree Holder. In the instant case, what is put to execution is the Deed of Compromise transformed into the Consent Award dated 01.03.2019. The impugned Judgment has committed an irregularity in the construction of the subject paragraph under execution. As already noted, the Promoters' argument regarding the meaning of the word "forum" is rejected. The Promoters admit that VPS/Medeor deposited Rs. 15.86 Crore to

prevent the execution of Medeor's properties through sale or otherwise. The objection to the enforceability of the Consent Award is not limited to the mode or manner of execution, but also to the timing of the execution. To wit, it is argued that the obligation to discharge the liability of the Promoters arises upon confirmation of liability by the Highest Court of Appeal. The award dated 17.08.2021 is subject to a challenge under Section 34 of the Arbitration Act. Therefore, the obligation to indemnify under the Consent Award has not arisen. The argument is reiterated only to be rejected for the following reasons.

**18.** The parties to the appeal have addressed the principle of indemnity. More precisely, VPS/Medeor's case is that, even if the relevant paragraph is treated as a Contract of Indemnity, the starting point for discharging responsibility or liability need not await confirmation of the Award by the Highest Court of Appeal. By contrast, the Promoters' case is that the parties' understanding is clear that the Promoters are under an obligation to discharge responsibility or liability, as confirmed by the Highest Court of Appeal. In the circumstances of the case, since the award is under challenge before the High Court of Delhi, the cause of action for enforcing the Consent Award has not arisen.

**19.** The High Court, in resolving the incongruence it perceived in Paragraph 32(a), treated the clause as a "Contract of Indemnity" governed by Sections 124 and 125 of the Contract Act. We accept that Paragraph 32(a) of the Consent Award contains an indemnity component. However, a threshold question arises, even before constructing the said paragraph, i.e., is the fourth limb, "the Respondents will ensure that no liability regarding the said litigation is recovered from the First and Second Claimants by the Forum", an indemnity obligation in the first place, or if it is an absolute obligation? This question is a matter of construction and cannot be presumed to be answered by the High Court. Where the promisor incurs an absolute obligation, it can be enforced without the occurrence of actual loss, whereas in an indemnity contract, the risk of loss remains contingent. The word "ensure" in the fourth limb, combined with the broad contractual definition of "forum", points to an absolute obligation, and not a contingent obligation. A Contract of Indemnity is perceived and implemented on the principle of a contract by which one party agrees to make good a loss suffered by the other. Another way of simplifying a Contract of Indemnity is to say that it is one whereby a party undertakes to save another party harmless from loss or damage arising from a particular transaction or claim. In *Khetarpal Amarnath (supra)*, Hon'ble Mr. Justice Gajendragadkar, speaking for the Bench, referred to the consideration of the Contract of Indemnity by Hon'ble Mr. Justice Chagla, held as follows:

*"25. In this connection, we may refer to the decision of Mr. Justice Chagla, as he then was, in 'Gajanan Moreshwar v. Moreshwar Madan', AIR 1942 Bom 302 (A). In considering the scope and effect of the provisions of Ss. 124 and 125, Contract Act, Chagla J. has observed that S. 124 deals only with one particular kind of indemnity which arises from a promise made by the indemnifier to save the indemnified from the loss caused to him by the conduct of the indemnifier himself or by the conduct of any other person; but that it does not deal with those classes of cases where the indemnity arises from loss caused by events or accidents which do not or may not depend upon the conduct of the indemnifier or any other person.*

*26. In other words, according to the learned Judge, section 124 does not exhaustively deal with all classes and kinds of contracts of indemnity. Similarly, S. 125 deals only with the rights of the indemnity-holder in the event of being sued, and it is by no means exhaustive of the rights of the indemnityholder who has other rights besides those mentioned in the section.*

*27. With respect, we agree with the view thus expressed by Chagla J. In our opinion, in dealing with the rights and obligations flowing from a contract of indemnity, the Court must always ask itself whether the indemnified party has incurred a liability, and if it shown that liability has been*

*incurred and is absolute, then he has a cause of action to call upon the indemnifier to save him from that liability and to meet that obligation.”*

The crux of consideration may not hinge on the scope or extent of Indemnity agreed in Paragraph 32(a) of the Consent Award, but rather on the clauses dealing with the immunity assured to VPS/Medeor on the one hand and, on the other hand, the starting point for enforcing the Contract of Indemnity.

**20.** The leading judgment in this regard is *Parayya Allayya Hittalamani v. Sri Parayya*,<sup>4</sup> which surveyed cases<sup>5</sup> and applied the principles of contractual construction to a consent decree. In this light, the principles of Contractual Construction as laid down in *Annaya Kocha Shetty (Dead) through LRs v. Laxmibai Narayan Satose (since Deceased) through LRs & Ors*,<sup>6</sup> a decision one of us (SVNB J.) was a party to, is relevant for our discussion:

*“17. The guide to the construction of deeds and tools adopted can broadly be summarised as follows:*

*17.1 The contract is first constructed in its plain, ordinary and literal meaning. This is also known as the literal rule of construction.*

*17.2 If there is an absurdity created by literally reading the contract, a shift from literal rule may be allowed. This construction is generally called the golden rule of construction.*

*17.3 Lastly, the contract may be purposively constructed in light of its object and context to determine the purpose of the contract. This approach must be used cautiously.”*

**21.** Let us, for convenience, reproduce Paragraph 32(a) in five limbs by noting the phrases in support of the VPS/Medeor (Appellants) in *italics* and those in support of the Promoters (Respondents) in **bold**:

**21.1** First Limb: *“From 02.02.2019 (the 'Effective Date'), the Respondents [the Promoters] undertake and agree to defend/contest at its cost all proceedings detailed in Annexure-I of the Deed of Compromise (as annexed herewith) including legal expenditures on behalf of the First Claimant [Medeor].”*

**21.2** Second Limb: *“The First and Second Claimants [VPS/Medeor] will provide all necessary assistance in respect of the said proceedings and also furnish a Power of Attorney in favour of the Respondents [the Promoters] and its legal Counsels to defend the said Proceedings.”*

**21.3** Third Limb: *“That in the event the said Proceedings culminate in the Forum imposing any liability on the First Claimant [Medeor], the Respondents [the Promoters] can take all remedies available in law including but not limited to settling a proceeding on behalf of the First Claimant [Medeor] at any juncture and/or filing Appeals/Review, etc. on behalf of the First Claimant [Medeor] till the Highest Court of Appeal[.]”*

**21.4** Fourth Limb: *“[H]owever, the Respondents [the Promoters] will ensure that no liability in regard to the said litigation is recovered from the First and Second Claimants [VPS/Medeor] by the Forum.”*

**21.5** Fifth Limb: **“The Respondents [the Promoters] will keep the First Claimant [Medeor] indemnified of the same and ensure that in case any liability is confirmed**

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<sup>4</sup> (2007) 14 SCC 318

<sup>5</sup> See, *Baldevdas Shivalal v. Filmistan Distributors (India) (P) Ltd.*, (1969) 2 SCC 201; and *Hindustan Motors Ltd. v. Amritpal Singh Nayar & Anr*, 2002 100 DLT 278

<sup>6</sup> 2025 INSC 466

by the Highest Court of Appeal, the same will be discharged by the Respondents within a period of 30 days.”

\*Insertions made in [ ]

**21.6** It is apposite to note that Annexure-I to the Compromise Deed (titled “List of Proceedings Being Taken Over by Third Party”) includes at S. No. 5, the EY Arbitration before ICA bearing No. AC-2085. Further, Forum was contractually defined as: “means any Court, Court of Appeal, Authority, Tribunal, Statutory Authority, Ministry, Judicial, Quasi-Judicial Authority, Adjudicatory, Investigation Officer, etc., by whatsoever name called”. So, it can be inferred that the present dispute is covered. These factors were decided in favour of VPS/Medeor by the High Court.

**22.** The literal construction of Paragraph 32(a) discloses the following obligations between the parties:

**22.1 Obligation to Defend:** The heading to Annexure-I reads as “List of Proceedings Being Taken Over by Third Party”. This implies that the Promoters undertook to defend and contest all proceedings detailed in Annexure-I of the Compromise Deed at their own cost, including all legal expenditures. The EY Arbitration is included in the said Annexure.

**22.2 Appellants’ Assistance:** VPS/Medeor were required to provide all necessary assistance in these proceedings and furnish a Power of Attorney to the promoters and their legal counsels to enable them to defend the cases.

**22.3 Promoters’ Remedies:** If a forum imposes any liability on VPS/Medeor, the promoters are authorised to take all available legal remedies, including settling the proceedings at any stage or filing appeals up to the Highest Court of Appeal.

**22.4 Protection from Recovery:** The promoters must ensure that no liability regarding the specified litigation is recovered from VPS/Medeor by any forum.

**22.5 Indemnity and Discharge of Liability:** The promoters agreed to keep the VPS/Medeor indemnified. They specifically undertook to ensure that any liability confirmed by the Highest Court of Appeal would be discharged by them within 30 days.

**23.** The impugned Judgment has taken note of the obligation undertaken by the Promoters in the sentence shown in **bold**, but has not given due construction to the preceding sentences in *italics*. This makes all the difference in fixing the trigger point of discharging the liability by the Promoters.

**24.** As noted in *Khetarpal Amarnath (supra)*, if the indemnity holder has incurred a liability, and that liability is absolute, he is entitled to call upon the indemnifier to save him from that liability and pay it off. Therefore, the EY Arbitration Award and its associated proceedings crystallise a liability against VPS/Medeor that was absolute in character. The High Court’s Order dated 04.03.2022 directed Medeor to deposit the full awarded amount (principal, interest and cost) for a conditional stay of the execution of the EY Arbitration Award. On 17.05.2023, Medeor deposited Rs. 15,86,17,808/- under protest to prevent execution by sale of its assets. This deposit is a liability in regard to the EY Arbitration Award, which is placed at Sl. No. 5 of Annexure-I to the Consent Award. Thus, the fourth limb’s trigger, i.e., recovery of liability by a forum, had fully crystallised by the stay order dated 04.03.2022.

**25.** We further note that the third limb, the remedies clause permitting appeals up to the Highest Court, merely authorises the Promoters. Further, the fifth limb granting thirty days after confirmation by the Highest Court is for an extreme scenario in which liability survives every appellate challenge. It is not the primary trigger for the Promoters’ obligation.

Treating the fifth limb as a necessary prerequisite to the Promoters' obligation would render the fourth limb otiose.

**26.** From a careful reading of the relevant sentences in the subject paragraph, it can be, without contradiction, stated that the parties to the Consent Award have agreed not only to absolve but have also agreed to absorb the exigencies of the litigation which the Promoters have undertaken in this context. Further, in construing the said paragraph, the first four limbs cannot be ignored, and effect be given only to the fifth limb. Consequently, the enforcement of the Award falls within the expression of "will ensure". Upon literal construction of the agreed clause between the parties, we are of the view that applying the thirty days after the Award is received, the confirmation of the Highest Court of Appeal, to the first four limbs of the paragraph is erroneous. In our view, this is a stand-alone situation, and by the use of the word "ensure", the obligation of the Promoters is to insulate VPS/Medeor from any liability arising from pending disputes.

**27.** The reliance by the Promoters on both *Export Credit Guarantee Corporation of India Limited (supra)* and *Suraj Mal Ram Niwas Oil Mills (P) Limited. (supra)* is misplaced. On the contrary, we note that the ratio of these decisions supports the VPS/Medeor, rather than the Promoters. Both Judgments state that in commercial contracts, the exact words used by the parties must be given paramount importance, and courts are strictly prohibited from adding, deleting, or substituting words under the guise of interpretation. In the present dispute, the High Court used a "purposeful interpretation" to conclude that the Promoters owed no financial duty until the EY liability was confirmed by the Highest Court of Appeal. By doing so, the High Court ignored the immediate obligation mandated by the Compromise Deed, namely, that the Promoters must "*ensure that no liability... is recovered from [VPS/Medeor] by the Forum*". Since both decisions state that a Court's endeavour should always be to interpret the words in which the contract is expressed by the parties rather than altering them, the Promoters cannot use these decisions to justify the High Court's departure from the plain terms of the Consent Award.

**28.** Purposive construction is unavailable in the present case because a literal and plain reading of Paragraph 32(a) of the Consent Award, taking every limb together and none in isolation, ensures an immediate enforceable obligation. The present case is one of discharge of a crystallised liability, and it is not a case of indemnity that matures only upon the confirmation by the Highest Court of Appeal. The liability against VPS/Medeor crystallised when the Forum compelled the deposit of Rs. 15,86,17,808/-. This triggers the obligation under Paragraph 32(a) of the Respondents (Promoters) to compensate the Appellants (VPS/Medeor).

**29.** The Enforcement Petition is allowed, and the Promoters are granted 30 days to pay or deposit Rs. 15,86,17,808/- for the benefit of VPS/Medeor. The amount deposited by the Promoters is subject to the outcome of the pending proceedings between EY and the Promoters. In case VPS/Medeor is successful in setting aside the Award dated 17.08.2021, the Promoters are entitled to encash the bank guarantee provided by EY in the proceedings before the High Court of Delhi.

**30.** In the facts and circumstances of the case and for the above reasons, the impugned Judgment is accordingly set aside. The Civil Appeal is allowed.

No order as to costs. Pending application(s), if any, stand disposed of accordingly.