

CASE BRIEF

Case Name: **Gaurav Aggarwal v. Richa Gupta**
Case Number: **O.M.P. 1/2025 & I.A. 4139/2025**
Court: **Hon'ble Delhi High Court**
Coram: **Hon'ble Mr. Justice Amit Bansal**
Date of Decision: **15th October, 2025**

1. Facts & Procedural History

Brief Facts (inline definitions, simple formal flow)

1. The respondent, Ms. Richa Gupta, held sub-leasehold rights in a residential flat in Noida, Uttar Pradesh, acquired under a sub-lease deed executed by Jaypee Infratech Limited ('**JIL**'). The property consisted of a flat unit along with one car-parking space. The respondent approached the petitioner, Mr. Gaurav Aggarwal, with a proposal to transfer the respondent's entire sub-leasehold interest. The parties executed an Agreement to Sell ('**ATS**') for a total consideration of Rs. 5 crores, and the petitioner paid Rs. 50,000 as token money.
2. The ATS recorded that, before execution of the sale deed, the respondent had to obtain prior permission for transfer of the sub-leasehold rights from JIL and the Yamuna Expressway Industrial Development Authority ('**YEIDA**'). The respondent informed the petitioner in writing that a joint application would have to be filed before both authorities to secure the necessary approvals for completing the sale.
3. The respondent then terminated the ATS unilaterally. The petitioner disputed the termination and asserted that the ATS remained valid and enforceable. The petitioner initiated arbitration after the termination and filed a statement of claim asserting rights under the ATS, invoking the arbitration clause in terms of Section 21 of the Arbitration and Conciliation Act, 1996 ('**Act**'). The respondent contested the validity and enforceability of the ATS, stating that it was neither registered nor stamped, which were mandatory requirements under the law applicable in Uttar Pradesh.
4. The respondent raised a preliminary objection in the arbitration that the ATS was unregistered and unstamped and therefore unenforceable under the Registration Act, 1908 ('**Registration Act**') and the Indian Stamp Act, 1899 ('**Stamp Act**'). The respondent then moved an application under Section 32(2)(c) of the Act to terminate the arbitration proceedings, asserting that continuation was unnecessary because the underlying agreement was legally unenforceable.
5. The arbitrator examined the submissions and the authorities and concluded that the ATS amounted to a contract for sale within Section 54 of the Transfer of Property Act, 1882

('TPA'). The arbitrator held that the mandatory provisions of the Registration Act applied, in particular Section 17(1)(f) as applicable in Uttar Pradesh, which required registration of such contracts. Since the ATS had not been registered, the arbitrator held it to be unenforceable under Section 49 of the Registration Act, and concluded that no claim could succeed on its basis.

6. The arbitrator considered the nature of ownership and immovable property with reference to the TPA, the Registration Act, and the General Clauses Act, 1897. The arbitrator noted precedents that classified leasehold rights as immovable property and held that transfer of such rights without reservation amounted to a sale under Section 54 of the TPA.
7. The arbitrator further held that the ATS created, declared and extinguished rights in immovable property and was therefore liable for stamping under the Stamp Act. Non-payment of stamp duty rendered the ATS inadmissible in evidence under Section 35 of the Stamp Act. The arbitrator rejected the contention that the title of the document or the contingency clauses changed its character as a sale and found those objections to be without merit.
8. After this analysis, the arbitrator concluded that the ATS was neither registered nor stamped, contrary to statutory requirements, and could not be specifically enforced. The arbitral tribunal therefore rejected the petitioner's claim, allowed the respondent's application under Section 32(2)(c) of the Act, and terminated the arbitration proceedings.

2. Contentions

2.1 Petitioner

1. The Petitioner contends that the ATS does not itself transfer ownership by itself and therefore would not create or declare any right in immovable property requiring registration. It concerns sub-leasehold rights and, in the Petitioner's view, falls within Section 17(2) of the Registration Act, and is not a "contract for sale" under Section 54 of the TPA. The Petitioner also relies on the contingent nature of the ATS, pointing to the requirement of prior permissions from JIL/YEIDA and to Clauses 5, 9 and 10 of

ATS to submit that the document could not be treated as an agreement to sell attracting registration and conveyance-linked stamp duty.

2.2 Respondent

1. The Respondent submitted that, by virtue of the Uttar Pradesh amendment to the Registration Act, 1908, an agreement to sell relating to immovable property in Uttar Pradesh must be executed by a registered instrument and that the ATS falls squarely within that rule. Reliance is placed on **Vijay Kumar Sharma v. Devesh Behari Saxena**¹, to contend that an unregistered agreement to sell is inadmissible and unenforceable.

3. Issue

1. Whether the unregistered and unstamped ATS concerning transfer of sub-leasehold rights in Noida (U.P.) is unenforceable and inadmissible under the Uttar Pradesh registration and stamp law
2. whether the arbitrator was correct in terminating the proceedings under Section 32(2)(c), and if the award is open to interference on any Section 34 ground.

4. Judgment / Holding

1. The High Court dismissed the Section 34 petition and upheld the award terminating the arbitration under Section 32(2)(c). The High Court found no ground to interfere with the Arbitrator's view that the ATS required registration and proper stamping under the Uttar Pradesh regime and, being unregistered and unstamped, was unenforceable and inadmissible.

5. Reasoning of Court

1. The High Court agreed with the Arbitrator's analysis that the ATS corresponds to a "contract for sale" within Section 54 of the TPA and, therefore, required mandatory registration in Uttar Pradesh. An unregistered ATS is unenforceable under Section 49 of the Registration Act, as amended in the State of Uttar Pradesh. The Court placed

¹ AIR 2008 All 66

reliance on **Vijay Kumar Sharma v. Devesh Behari Saxena**², which supports the proposition that an agreement to sell in U.P. must be registered, failing which it is inadmissible.

2. As to the Petitioner's reliance on Clauses 5, 9 and 10 of ATS and the permissions requirement, the Court held that, when read as a whole the ATS reflected an intent to carry out a sale of sub-leasehold rights without reservation, thereby attracting both registration and stamping mandates. No perversity or patent illegality was found to justify interference under Section 34 of the Act

6. PSL opinion

The Court applied the U.P. registration and stamp rules as written and treated the ATS as a contract for sale that needed registration and proper stamping. Because it was unregistered and unstamped, the Court held it was inadmissible and unenforceable, and therefore saw no reason to interfere with the arbitrator's termination. The result is consistent with the statutory scheme, even if the parties had framed the transaction as conditional on permissions and a future sale deed.

² Supra 1