2026:DHC:7071

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 10th AUGUST, 2026

\# **CNR No. DLHC010356422026**

\+ ARB. A. (COMM.) 56/2026, I.A. 20959/2026, I.A. 20960/2026, I.A. 20961/2026

M/S ARVITIS BISTRO PRIVATE LIMITED .....Petitioner

Through: Mr. Aaditya Vijayumar, Mrs. Akshita Katoch, Ms. Namrata Mohapatra and Mr Adarsh Nair, Advocates

versus

M/S RED BRICKS DEVELOPERS .....Respondent

Through: Mr. Rakesh Malhotra, Mr. Bharat Malhotra and Ms. Poorvi, Advocates

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

1. This Appeal, has been filed under Section 37(2)(b) of the Arbitration and Conciliation Act, 1996 (*hereinafter referred to as the* "**Arbitration Act**"), challenging the Order dated 18.06.2026 (*hereinafter referred to as the* "**Impugned Order**") passed by the Arbitral Tribunal in Case File Ref. No.DIAC/12728/04-26, on an Application filed by the Appellant under Section 17 of the Arbitration Act.

2. Shorn of unnecessary details, the facts in brief, as stated in the present Appeal are listed hereinbelow:

a. It is stated that the Appellant and the Respondent executed a General Agreement dated 16.12.2022 (*hereinafter referred to as the* "**Agreement**"), to jointly develop a restaurant at Property No.18, Lodhi Colony Main Market, Delhi – 110003 (*hereinafter referred to as the* "**premises**"). It is stated that the Appellant has been in peaceful use and possession of the ground floor and first floor of the premises for the last three years and the keys to the first floor were handed over to the Appellant by the Respondent himself at the time of commencement of the Agreement.

b. Under the Agreement, the Appellant was responsible for equipping the premises, completing the interiors including the bar counter, running the kitchen and procuring raw materials, whereas the Respondent was responsible for the sales and billing being conducted in its name and for ensuring the requisite licences and receiving an agreed monthly amount of Rs.5,50,000/- plus applicable taxes. It is stated that the Appellant invested approximately Rs.5,00,00,000/- in the interiors, equipment and other works for the premises. It is also stated that the Appellant also paid the Respondent a sum of Rs.22,00,000/- as an interest-free performance/security deposit which according to Clause 3.19 of the Agreement was to become refundable upon settlement of accounts after expiry of the Agreement or upon premature termination by either party.

c. It is stated that on 25.02.2026, the Respondent arrived at the premises and coerced the Appellant into agreeing to an unwarranted escalation of the payment terms and threatened that, in the event the Appellant failed to comply with the Respondent's demand, the Respondent would terminate the Agreement. It is stated that under such threat and undue pressure, the Directors of the Appellant-Company were compelled to sign a handwritten note dated 25.02.2026 on a piece of paper recording the purported escalation.

d. It is further stated that subsequently the Respondent once again entered the premises and created disturbance while the restaurant was open for business. The Respondent put a lock on the first floor of the premises, where the 3 refrigerators containing perishable food items used for the daily operations of the restaurant were kept.

e. Pursuant thereto, the Appellant filed a Petition under Section 9 of the Arbitration Act being O.M.P. (I) COMM. 99 of 2026 before this Court seeking directions to restore possession of the first floor and to continue complete operation of business. However, the said Petition was withdrawn by the Appellant on 16.03.2026 with liberty to file afresh in case need so arises.

f. It is stated that on 20.03.2026, the Respondent blocked the business bank account bearing A/C No.194505500179 maintained at D-22, ICICI Bank Limited, Defence Colony, New Delhi, thereby preventing the transfer and utilization of business revenues and disrupting business continuity. Further, a letter dated 20.03.2026 was issued by the Appellant to the Bank seeking reasons for the blocking of the aforesaid account.

Thereafter, the Appellant issued another letter dated 23.03.2026 to the Bank seeking restoration of full internet banking access. It is stated that the Appellant on the same day itself sent an email to the Respondent requesting that the Bank account be made fully operational.

g. The Appellant addressed a further communication to the Bank requesting restoration of normal operations of the account to enable the business to function in accordance with the Agreement. In response to this, the Respondent addressed an email raising alleged concerns regarding GST and VAT non-compliance, and sought documents from December, 2022 onwards for audit and finalisation of its books.

h. Thereafter on 07.04.2026, the Appellant addressed an email to Respondent, requesting the latter to immediately cease its breaches and restore the bank account forthwith.

i. When no action was taken by the Respondent, the Appellant filed another petition being O.M.P. (I) COMM. 155 of 2026 under Section 9 of the Arbitration Act challenging obstructions to the restaurant operations caused by the Respondent blocking the bank account and not returning the Appellant's money to the tune of Rs.20,00,000/- approximately. It is stated that the Respondent, thereafter, on 10.04.2026 unilaterally terminated the Agreement and locked the Appellant out of the premises. Since the lock out was done overnight and without any notice to the Appellant, the Appellant was unable to remove all its equipment from the premises.

j. It is stated that *vide* Order dated 13.04.2026 passed by this Court in O.M.P. (I) COMM. 155 of 2026, a Local Commissioner was appointed to visit the premises on 14.04.2026 at 3:00 PM and make an inventory of the items that are being taken away and left behind by the Appellant. This Court vide the same Order also appointed Mr. Shashank Garg, Senior Advocate as the Sole Arbitrator to adjudicate upon the disputes between the Parties having arisen under the Agreement and directing to treat the petition under Section 9 as one filed under Section 17 of the Arbitration Act.

k. On 14.04.2026, the Local Commissioner prepared a list of inventory of the items removed and those remaining at the premises. However, it is stated that after completing the inventory of the ground floor, the Local Commissioner was refused access to the first floor by the Respondent on the pretext that the keys were not available.

l. On the Local Commissioner being denied entry to the first floor of the premises, the Appellant filed an application under Order 39 Rule 2A of the CPC alleging wilful disobedience of Order dated 13.04.2026 passed by this Court in O.M.P. (I) COMM. 155 of 2026. This Court *vide* Order dated 16.04.2026, directed the Local Commissioner to inspect the premises again and ensure that perishable items, such as meat etc. be removed from the premises. It is stated that the Local Commissioner visited the premises and found no meat to be present on the first floor.

m. The Arbitral Tribunal came to be constituted thereafter on 17.04.2026. Thereafter, the Appellant on 21.04.2026, filed an Application under Section 17 of the Arbitration Act, wherein among other reliefs, the Appellant sought permission to remove all its movable equipment and belongings from the premises and sought protection of approximately Rs.20,00,000/- lying in the business bank account.

n. On 27.04.2026, during consideration of the Section 17 Application by the Arbitral Tribunal, the Respondent stated that it had no objection to removal of the movables listed in the Local Commissioner's Report, but objected to removal of equipments fixed to the walls or requiring extensive dismantling. A Local Commissioner was consequently appointed to oversee the removal process. It is stated that the Local Commissioner visited the premises on 03.05.2026. However, according to the Appellant, when the process commenced, the Respondent permitted removal of only some furniture and kitchen articles and prevented removal of most of the equipment.

o. On 05.05.2026, the Arbitral Tribunal heard the parties at length in relation to the disputes concerning the movable equipment lying at the premises. At the conclusion of the hearing, learned Counsel for the Respondent sought one day's accommodation to obtain instructions from the Respondent as to whether any further concession or offer could be made in respect of certain movable items lying on the ground floor. It is stated that on

06.05.2026, the Respondent filed an Application challenging the Reports prepared by the Local Commissioner. The Arbitral Tribunal dismissed the said Application, observing that the Respondent had itself signed the Local Commissioner's Report and had raised objections thereto belatedly. On the same date, i.e. 06.05.2026, the Arbitral Tribunal issued various directions concerning the affairs of the parties and the movable articles lying at the premises. The parties were directed to coordinate access to their respective GST, VAT, TDS and excise portals, and to reconcile the statutory dues. It was further directed that, after clearing the outstanding liabilities, any balance remaining in the relevant business account was to be placed in a fixed deposit. The Appellant was also permitted to remove two computers and one server from the premises, subject to preservation of the data contained therein. Further directions were issued by the Arbitral Tribunal concerning the removal, transportation, valuation and payment in respect of various disputed movable items, including release of certain cash amounts to the Appellant, without prejudice to the rights and contentions of the Respondent.

p. The Appellant approached the Respondent on 08.05.2026 for compliance of the directions contained in the Order dated 06.05.2026 passed by the Arbitral Tribunal. According to the Appellant, the Respondent stated that compliance would be possible only after a few days, however, despite the said assurance, the Respondent did not comply with the directions.

q. On 08.05.2026, the Respondent filed an Appeal under Section 37 of the Arbitration Act being ARB. A. (COMM.) 38/2026 before this Court challenging the Order dated 06.05.2026 passed by the Arbitral Tribunal. *Vide* Order dated 13.05.2026, this Court set aside Sub-Para 8(b) of Paragraph 6 of the Arbitral Tribunal's Order thereby directing removal, transportation, retention and payment concerning disputed movable items without a prior adjudication of ownership. However, the Co-ordinate Bench expressly stated that it was not deciding the rival claims of ownership and directed the Arbitral Tribunal to expeditiously adjudicate the issue of ownership and entitlement of the disputed goods in accordance with law.

r. Pursuant to the Order dated 13.05.2026, the Appellant placed on record invoices concerning the equipment lying on the ground floor of the premises along with a fresh Application under Section 17 of the Arbitration Act before the Arbitral Tribunal. According to the Appellant, the invoices demonstrated that the equipment had been purchased by the Appellant and the GST thereon had also been paid by them. The Appellant further asserts that the Respondent did not produce any invoice, purchase record, accounting entry, GST record or other contemporaneous document showing that it had purchased or owned the disputed equipment.

s. *Vide* Order dated 18.06.2026, the Arbitral Tribunal disposed of the Application filed by the Appellant under Section 17 of the Arbitration Act by restraining the Respondents from selling, transferring, alienating, creating third-party rights in, dismantling or materially altering the items reflected in the Local Commissioner's inventory. It is the case of the Appellant that this protection was insufficient, because it neither resolved ownership nor enabled the Appellant to recover and use its equipment. It is against this Order dated 18.06.2026 passed by the Arbitral Tribunal that the present Appeal has been filed before this Court.

3. Learned Counsel for the Appellant submits that the Impugned Order is erroneous insofar as it relegates the issue of ownership of the movable equipment to trial. It is submitted that the articles in question, including coffee machines, coffee grinders, wine chillers, wine machines, air conditioners, air fresheners and refrigerators, are *ex facie* movable properties and cannot be treated as permanent fixtures merely because they were installed or used at the premises. According to learned Counsel for the Appellant, the nature of these articles could have been determined by the Ld. Arbitral Tribunal at the Section 17 stage itself and there was no justification for postponing the issue to the stage of a full-fledged trial.

4. Learned Counsel for the Appellant further submits that the Appellant had placed on record GST-compliant invoices, bearing IRN and e-way bill particulars, which were issued in the Appellant’s name from 2022 onwards and which demonstrate that the disputed equipment had been purchased by the Appellant. He submits that the Respondent, on the other hand, has neither asserted that it purchased the equipment nor produced any invoice, purchase record, accounting entry, GST record or other contemporaneous document to establish its ownership. He contends that the presence of the

equipment at the premises is also not disputed and stands recorded in the Local Commissioner's inventory. Learned Counsel therefore submits that there was sufficient *prima facie* documentary material before the Arbitral Tribunal to recognise the Appellant's claim to the equipment for the limited purpose of granting an interim relief.

5. Learned Counsel for the Appellant further submits that the Respondent had, in the earlier proceedings, never disputed the Appellant's ownership of the movable equipment and its objection was essentially that certain items were affixed to the premises. He contends that the Respondent could not subsequently raise a belated claim disputing ownership when no documentary evidence of its own title had been produced. Learned Counsel for the Appellant also draws the attention of this Court to the fact that the Respondent had earlier offered to pay the current/depreciated value of certain equipments which it proposed to retain. According to learned Counsel for the Appellant, such an offer itself indicates that the Respondent did not regard itself as the owner of the equipment, since there would have been no occasion for it to offer payment for property which it itself owned.

6. Learned Counsel for the Appellant submits that the Arbitral Tribunal, while exercising jurisdiction under Section 17 of the Arbitration Act, was not required to conduct a mini-trial or finally adjudicate the rival claims of title. He states that what was required was only a *prima facie* assessment of the material placed before him for the purpose of preserving the subject matter of the arbitration and preventing the Appellant's rights from being defeated during the pendency of the proceedings. He contends that, even if the Arbitral Tribunal was of the view that final ownership required trial, it ought, at the very least, to have directed that the equipment be released to

the Appellant subject to appropriate safeguards, or alternatively sealed so that neither party could use or appropriate the same pending final adjudication.

7. Learned Counsel for the Appellant further submits that the Impugned Order causes grave and irreversible prejudice to the Appellant and the Appellant has been deprived of the use of equipment which, according to its documentary case, had itself purchased and paid for, and is now prevented from using the equipment to recommence its business or establish another restaurant outlet. It is submitted that the Respondent would suffer no prejudice if the equipment were released to the Appellant subject to an undertaking or indemnity. In this regard, learned Counsel for the Appellant submits that the Appellant had categorically expressed its willingness to indemnify the Respondent, in the event that the Appellant ultimately failed in its claim, and therefore, the equities could have been adequately balanced by the Ld. Arbitral Tribunal while granting interim relief.

8. Learned Counsel for the Appellant further submits that the Impugned Order does not comply with the specific direction issued by this Court on 13.05.2026, whereby, this Court had directed the Arbitral Tribunal to expeditiously consider and adjudicate the issue of ownership and entitlement of the disputed goods in accordance with law. It is contended that merely restraining the Respondent from selling, transferring, alienating, dismantling or materially altering the equipment, without considering the Appellant's *prima facie* claim of ownership and without granting any effective interim protection, does not amount to compliance with the said direction.

9. On the issue of the Rs.22,00,000/- security/performance deposit, learned Counsel for the Appellant submits that the Arbitral Tribunal has

failed to appreciate the express terms of Clause 3.19 of the Agreement. Learned Counsel for the Appellant further submits that the obligation to refund the deposit is not dependent upon a final determination as to whether the termination of the Agreement was valid, invalid, justified or unjustified. He contends that the said Clause 3.19 of the Agreement deliberately uses the neutral expression "premature termination by either of the parties" and does not stipulate that the refund would await adjudication of the legality of the termination. He, therefore, states that even assuming, without admitting, that the Respondent's termination was valid, the Appellant would still be entitled to refund of the performance deposit under the express terms of the Agreement. Learned Counsel for the Appellant further contends that the Appellant had specifically brought to the Arbitral Tribunal's notice its urgent financial distress and the need for immediate release of the Rs.22,00,000/- deposit to meet its liabilities towards vendors and creditors and to sustain its business operations. It is submitted that the Appellant had already been compelled to discharge 25 employees and the employment of approximately 30 staff members were at risk. It is stated that despite these submissions, the Arbitral Tribunal declined to grant relief to the Appellant in respect of the security deposit, more so without recording adequate reasons. Learned Counsel, therefore, contends that the refusal to deal with the issue constitutes an unreasoned and arbitrary denial of interim relief.

10. Learned Counsel for the Appellant lastly submits that the cumulative effect of the Impugned Order is to render the Order dated 13.05.2026 passed by this Court and the Section 17 proceedings substantially ineffective. It is submitted that the Appellant has been left without any meaningful interim remedy despite having placed *prima facie* documentary material in support

of its ownership claim and despite the Respondent having produced no competing title documents, and despite the specific direction of this Court for expeditious consideration of the ownership issue. Learned Counsel, therefore, states that the Impugned Order ought to be set aside to the extent it relegates the ownership dispute to trial and prays that the Appellant be permitted to remove the movable equipment or, alternatively, the equipment be sealed. Learned Counsel for the Appellant further prays that the Respondent also be directed to secure the sum of Rs.22,00,000/- before the Arbitral Tribunal.

11. Heard the learned Counsel for the Appellant and perused the material on record.

12. Before considering the merits of the case, it is necessary to consider the scope of jurisdiction of this Court under Section 37(2)(b) of the Arbitration Act. Section 37(2)(b) of the Arbitration Act makes an order of an Arbitral Tribunal granting or refusing to grant an interim measure under Section 17 of the Arbitration Act appealable. However, the statutory right of appeal does not contemplate a fresh adjudication of the dispute or unrestricted re-appreciation of the material considered by the Arbitral Tribunal. The jurisdiction under Section 37(2)(b) is required to be exercised with due restraint, particularly where the Arbitral Tribunal has exercised its discretion on the basis of the material before it. The Appellate Court is not required to substitute its own view merely because another view is possible. It is well settled that the Appellate Court is normally slow to interfere in discretionary orders unless such an order is passed on nil material or is so perverse that is shocks the conscience of the Court. A co-ordinate Bench of this Court in Dinesh Gupta v. Anand Gupta, **2020 SCC OnLine Del 2099**,

after relying on various judgments on the scope of Section 37(2)(b) of the Arbitration Act, has held as under:

> "***65.*** *Interestingly, while examining, in Snehadeep Structures (P) Ltd. v. Maharashtra Small Scale Industries Development Corporation Ltd., the scope of the expression "appeal" as employed in Section 7 of the Interest on Delayed Payments to Small Scale and Ancillary Undertakings Act, 1993, the Supreme Court held that, "if … the meaning of "appeal" is ambiguous, the interpretation that advances the object and purpose of the legislation, shall be accepted." Purposive interpretation, as has been noticed in Shailesh Dhairyawan v. Mohan Balkrishna Lulla and Richa Mishra v. State of Chhattisgarh, has, over time, replaced the principle of "plain reading" as the golden rule, for interpreting statutory instruments.*
>
> ***66.*** *In my opinion, this principle has to guide, strongly, the approach of this Court, while dealing with a challenge such as the present, which is directed against an order which, at an interlocutory stage, merely directing furnishing of security, by one of the parties to the dispute. The power, of the learned Sole Arbitrator, to direct furnishing of security, is not under question; indeed, in view of sub-clause (b) of Section 17(1)(ii) of the 1996 Act, it cannot. The arbitrator is, under the said sub-clause, entirely within his jurisdiction in securing the amount in dispute in the arbitration. Whether, in exercising such jurisdiction, the arbitrator has acted in accordance with law, or not, can, of course, always be questioned. While examining such a challenge, however, the Court has to be mindful of its limitations, in interfering with the decision of the arbitrator, especially a decision taken at the discretionary level, and at an interlocutory stage.*

__67.__ One may also refer, in this context, to Section 5 of the 1996 Act, which reads as under:

> *"__5. Extent of judicial intervention.-__ Notwithstanding anything contained in any other law for the time being in force, in matters covered by this Part, no judicial authority shall intervene except where so provided in this Part."*

__68.__ It is, no doubt, possible to argue that the intent, of Section 5, is to restrict judicial intervention, with arbitral proceedings, and orders passed therein, to the avenues for such interference, as provided by Part I of the 1996 Act, and not to restrict the scope of the Sections and the provisions contained in Part I. Perhaps. Section 5 remains, however, a clear pointer to the legislative intent, permeating the 1996 Act, that judicial interference, with arbitral proceedings, is to be kept at a minimum. Significantly, in Venture Global Engineering v. Satyam Computer Services Ltd, it was opined that the scheme of the 1996 Act was "such that the general provisions of Part I, including Section 5, will apply to all Chapters or Parts of the Act". In State of Kerala v. Somdatt Builders Ltd., a Division Bench of the Kerala High Court held that the jurisdiction of the Court, under Section 37 of the 1996 Act, was also required to be interpreted in the light of the legislative policy contained in Section 5. I entirely agree.

__69.__ The principle of least intervention by courts was held, in Enercon (India) Ltd. v. Enercon Gmbh, to be well-recognised in arbitration jurisprudence, in almost all jurisdictions. In a similar vein, earlier in point of time, the Supreme Court held, in P. Anand Gajapathi Raju v. P.V.G. Raju, that Section 5 "brings out clearly the object of the new Act, namely, that of encouraging resolution of disputes expeditiously and less expensively and when there is an arbitration agreement, the court's intervention should be minimal." Likewise, albeit in the context of Section 34, *it was held, in McDermott International Inc. v. Burn Standard Co. Ltd., thus:*

> *"The 1996 Act makes provision for the supervisory role of courts, for the review of the arbitral award only to ensure fairness. Intervention of the court is envisaged in few circumstances only, like, in case of fraud or bias by the arbitrators, violation of natural justice, etc. the court cannot correct errors of the arbitrators. It can only quash the award leaving the parties free to begin the arbitration again if it is desired. So, the scheme of the provision aims at keeping the supervisory role of the court at minimum level and this can be justified as the parties to the agreement make a conscious decision to exclude the court's jurisdiction by opting for arbitration as they prefer the expediency and finality offered by it."*

(Emphasis supplied)

70. *Though the above exposition of the law is in the context of Section 34, the principles enunciated therein embody the general philosophy underlying the 1996 Act. The italicised words, towards the conclusion of the paragraph, especially, would apply, with equal force, to challenges to interlocutory orders of arbitral tribunals, under Section 37, as they would, to challenges to the final award, under Section 34.*

71. *Section 37 is, in a sense, a somewhat peculiar provision as, against the decision of the arbitrator, it provides for a first appeal, as well as a second appeal, to the High Court. Sub-section (1) provides for an appeal, to the High Court, from the decision of the Section 34 Court, before which the final award has, in the first instance, been tested. Sub-section (2), on the other hand, provides for a first appeal, against interlocutory orders of the arbitral tribunal under Section 16 or Section 17. There is, necessarily, a* *qualitative difference between these two challenges, though both would lie to the High Court. The challenge under Section 37(1), which is directed against a final award of the arbitrator/arbitral tribunal, is akin to a second appeal, as was observed by this Court in M.T.N.L. v. Fujitshu India Pvt. Ltd.. The challenge under Section 37(2), on the other hand, is directed against the decision of the arbitral tribunal and has therefore, in my opinion, necessarily to conform to the discipline enforced by Section 5. It would, therefore, be improper for a Court to treat an appeal, under Section 37(2) of the 1996 Act, as akin to an appeal under the CPC, or as understood in ordinary - or extraordinary - civil law. An appeal against an order by an arbitrator, or by an arbitral tribunal, is an appeal sui generis, and interference, by the Court, in such appeals, has to be necessarily cautious and circumspect.*

***72.** This position would stand especially underscored where the order, under challenge, is discretionary in nature. Orders of arbitrators, or Arbitral Tribunals, which are amenable to appeal, under Section 37(2), have, statutorily, to have been issued either under Section 16(2) or (3) or under Section 17. Section 16(2) and 16(3), essentially, deal with rulings on the jurisdiction and authority of the arbitral tribunal, to arbitrate. Any order, passed under either, or both, of these provisions has, therefore, necessarily to partake of a purely legal character. Such an order would not, ordinarily, be discretionary in nature.*

Section 17(1), and applicability of Order XXXIX, CPC, thereto

***73.** As against this, orders which are appealable under Section 37(2)(b) are orders granting, or refusing to grant, interim measures under Section 17. Section 17(1), for its part, reads thus:*

"17. Interim measures ordered by arbitral tribunal.-

(1) A party may, during the arbitral proceedings, apply to the arbitral tribunal -

(i) for the appointment of a guardian for minor or person of unsound mind for the purposes of arbitral proceedings; or

(ii) for an interim measure of protection in respect of any of the following matters, namely:—

(a) the preservation, interim custody or sale of any goods which are the subject-matter of the arbitration agreement;

(b) securing the amount in dispute in the arbitration;

(c) the detention, preservation or inspection of any property or thing which is the subject-matter of the dispute in arbitration, or as to which any question may arise therein and authorizing for any of the aforesaid purposes any person to enter upon any land or building in the possession of any party, authorizing any samples to be taken, or any observation to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence;

(d) interim injunction or the appointment of a receiver;

(e) such other interim measure of protection as may appear to the arbitral tribunal to be just and convenient,

and the arbitral tribunal shall have the same power for making orders, as the court has for the purpose of, and in relation to, any proceedings before it."

74. *The concluding caveat, in Section 17(1), makes it abundantly clear that the power of an arbitrator, to grant interim measures, under Section 17(1), is analogous and equivalent to the power of a Court, to pass such orders. Section 9 of the 1996 Act grants co-equal jurisdiction, worded in identical terms, on the Court, to pass interim orders, concluding with a* *parallel caveat, to the effect that "the Court shall have the same power for making orders as it has for the purpose of, and in relation to, any proceedings before it".*

75. *The scope and ambit of Section 9, especially in the light of this concluding caveat, was examined by the Supreme Court in Arvind Constructions Co. (P) Ltd. v. Kalinga Mining Corporation and Adhunik Steels Ltd. v. Orissa Manganese and Minerals (P) Ltd.. In Arvind Constructions Co. (P) Ltd., it was held thus (in para 15 of the report):*

> *"The argument that the power under Section 9 of the Act is independent of the Specific Relief Act or that the restrictions placed by the Specific Relief Act cannot control the exercise of power under Section 9 of the Act cannot prima facie be accepted. The reliance placed on Firm Ashok Traders v. Gurumukh Das Saluja, (2004) 3 SCC 155 in that behalf does not also help much, since this Court in that case did not answer that question finally but prima facie felt that the objection based on Section 69(3) of the Partnership Act may not stand in the way of a party to an arbitration agreement moving the court under Section 9 of the Act. The power under Section 9 is conferred on the District Court. No special procedure is prescribed by the Act in that behalf. It is also clarified that the court entertaining an application under Section 9 of the Act shall have the same power for making orders as it has for the purpose and in relation to any proceedings before it. Prima facie, it appears that the general rules that governed the court while considering the grant of an interim injunction at the threshold are attracted even while dealing with an application under Section 9 of the Act. There is also the principle that when a power is conferred under a special statute and it is*

> *conferred on an ordinary court of the land, without laying down any special condition for exercise of that power, the general rules of procedure of that court would apply. The Act does not prima facie purport to keep out the provisions of the Specific Relief Act from consideration. … we may indicate that we are prima facie inclined to the view that exercise of power under Section 9 of the Act must be based on well-recognized principles governing the grant of interim injunctions and other orders of interim protection or the appointment of a Receiver.'*"

13. A perusal of the Impugned Order shows that the Arbitral Tribunal, after hearing the parties at length, has interpreted Clause 3 of the Agreement come to the conclusion that the dispute regarding the equipment could not be resolved merely by determining whether the articles of the premises were physically movable or not. Under Clause 3.3 of the Agreement, the distinction was between permanent fixtures, which were to remain at the premises and movable equipment brought in by the Appellant, which the Appellant was entitled to remove. The Arbitral Tribunal, therefore, considered it necessary to determine whether the particular articles in dispute were equipment brought into the premises by the Appellant and whether, under the Agreement, the Appellant was entitled to remove them.

14. This Court finds the aforesaid approach of the Arbitration Act to be well founded. The Appellant's submission that articles such as coffee machines, refrigerators, wine chillers, etc are inherently movable, does not, by itself, establish the Appellant's ownership of the particular articles lying at the premises or its contractual right to remove them. The physical character of an article and the contractual entitlement to remove that article

are two distinct questions. The latter has necessarily to be examined by the Arbitral Tribunal with reference to the Agreement on the basis of the evidence relating to the particular equipment.

15. Perusal of the record shows that the Appellant relied upon invoices standing in its name, whereas the Respondent disputed whether the equipment covered by those invoices was the same equipment lying at the subject premises. The Respondent also pointed out discrepancies in the invoices and referred to the Appellant's operation of another restaurant under the name "MESA" at Aerocity. Thus, the dispute was not merely about the nature of the articles, but also about whether the invoices relied upon by the Appellant related to the particular equipment found at the premises. In these circumstances, the Arbitral Tribunal was of the opinion that a conclusive determination of ownership and entitlement would require examination of the invoices, their nexus with the subject premises, identification of the corresponding equipment and the relevant contractual provisions. This Court finds no infirmity in the said reasoning. An invoice may constitute evidence of purchase, but it cannot, in the facts of the present case, by itself establish the Appellant's right to remove a particular article when the Respondent disputes the connection between the invoice and the equipment in question. The Arbitral Tribunal was, therefore, justified in holding that the issue required fuller appreciation of evidence and could not be conclusively determined at the interim stage.

16. The mere fact that the Respondent may not have produced corresponding invoices in its own name also does not automatically entitle the Appellant to removal of the equipment. The relief sought was mandatory in nature and would have resulted in the disputed articles being removed

from the premises. In the opinion of this Court, the Arbitral Tribunal was, therefore, justified in requiring the Appellant to establish its *prima facie* entitlement to the specific articles by leading evidence before granting such relief.

17. The Arbitral Tribunal was also of the opinion that the relief sought by the Appellant was not merely protective in nature. The Appellant sought permission to remove the disputed equipment from the premises. Such a direction would have the effect of changing the existing position and placing the equipment in the possession of the Appellant before the rights of the parties had been finally determined. This Court finds no reason to interfere with the said approach. Where the ownership and entitlement to the disputed equipment are themselves in issue, it would not be appropriate to direct its removal at the interim stage unless the Appellant establishes a clear entitlement to the same. Once the equipment is removed, the existing position may not be capable of being restored in the event of the Respondent succeeding in the arbitration.

18. The Arbitral Tribunal directed the Respondents not to sell, transfer, alienate, create any third-party rights in, dismantle or materially alter the equipment forming part of the Local Commissioner's inventory. The Arbitral Tribunal, thus, ensured that the subject matter of the dispute remained protected pending final adjudication.

19. The Appellant has contended before this Court that it had offered to indemnify the Respondent against any loss arising from removal of the equipment. The said offer, however, does not by itself establish the Appellant's entitlement to the equipment. An indemnity may protect against monetary loss, but it cannot resolve the underlying dispute regarding

ownership or the contractual right to remove the equipment. The Arbitral Tribunal was therefore, justified in declining to grant the relief of removal merely on the basis of such an undertaking.

20. Learned Counsel for the Appellant has also relied on the Order dated 13.05.2026 passed by this Court to submit that the Arbitral Tribunal was required to decide the issue of ownership and entitlement expeditiously. It is contended that the Arbitral Tribunal failed to comply with the said direction by leaving the issue for final adjudication. This submission also cannot be accepted. The Order dated 13.05.2026 required the issue to be considered by the Arbitral Tribunal expeditiously and in accordance with law. It did not require the Arbitral Tribunal to decide the issue in favour of the Appellant or to do so without considering the rival claims. The Arbitral Tribunal considered the issue, heard the parties and examined the material placed before it. It thereafter, found that a conclusive determination would require fuller appreciation of evidence. Such a conclusion cannot be treated as non-compliance with the order of this Court.

21. The next issue is the Appellant's prayer for refund of the Rs.22,00,000/- security deposit. The Arbitral Tribunal was of the opinion that the claim for refund under Clause 3.19 was connected with settlement of accounts following expiry or premature termination of the Agreement. Since the parties had raised disputes regarding their respective rights and liabilities arising from the Agreement and its termination, the Arbitral Tribunal declined to direct immediate refund of the deposit. This Court finds the said reasoning to be justified. Learned Counsel for the Appellant has relied upon Clause 3.19 of the Agreement to contend that the deposit became immediately refundable upon termination. However, Clause 3.19 of the

Agreement also refers to settlement of accounts. The question as to whether any amount is ultimately payable to the Appellant cannot, therefore, be considered in isolation from the other claims and liabilities arising between the parties. The Arbitral Tribunal was thus justified in declining to grant immediate refund of the security deposit to the Appellant at the interim stage as such a direction would have granted substantial monetary relief to the Appellant before the parties contractual rights and liabilities had been finally determined. It is pertinent to note that the Arbitral Tribunal has not rejected the Appellant's claim to the deposit on merits. As such, the claim remains open for adjudication in the arbitration proceedings.

22. The Appellant has also relied upon its financial difficulties and the need for the deposit to meet its liabilities. While this Court is conscious of the submission, financial hardship cannot by itself establish an entitlement to interim payment of a disputed contractual claim. The relief has to be considered on the basis of the contractual rights of the parties seen in conjunction with the material placed before the Arbitral Tribunal.

23. The Arbitral Tribunal's approach, therefore, was to preserve the disputed equipment and defer determination of the substantive monetary and proprietary claims until the relevant evidence had been fully considered. This approach does not cause any irreversible prejudice to the Appellant. If the Appellant ultimately establishes its ownership and entitlement, appropriate relief can be granted in the final award.

24. This Court, therefore, does not find the reasoning of the Arbitral Tribunal to be perverse or unreasonable. The Arbitral Tribunal has considered the rival submissions and has passed appropriate preservative directions while leaving the substantive disputes open for final adjudication.

25. The Arbitral Tribunal has considered the rival claims regarding the disputed equipment, examined the contractual provisions relied upon by the parties and taken note of the dispute concerning the invoices and their correlation with the equipment lying at the premises. It has thereafter chosen to preserve the equipment rather than direct its removal. The Arbitral Tribunal has also declined to direct refund of the security deposit at the interim stage after considering the contractual provisions and the rival claims arising from termination of the Agreement. In the opinion of this Court, the course adopted by the Arbitral Tribunal cannot be said to be so arbitrary or perverse, that this Court must exercise its jurisdiction under Section 37 of the Arbitration Act.

26. The present Appeal, therefore, does not disclose any jurisdictional error, perversity or manifestly unreasonable exercise of discretion by the Arbitral Tribunal. The Appellant is essentially seeking a re-appreciation of the evidence and substitution of its view over that of the Arbitral Tribunal. Such an exercise is not warranted in the facts of the present case.

27. Accordingly, this Court finds no ground to interfere with the Impugned Order dated 18.06.2026 in exercise of its jurisdiction under Section 37(2)(b) of the Arbitration Act.

28. The Appeal is, accordingly, dismissed, along with pending application(s), if any.

29. It is clarified that nothing contained in the present Order shall be construed as a final opinion on the ownership or entitlement in respect of the disputed equipment, the consequences of termination of the Agreement, or the Appellant’s entitlement to the security deposit. All such issues shall

remain open for determination by the Arbitral Tribunal in accordance with law.

SUBRAMONIUM PRASAD, J

AUGUST 10, 2026
Rahul/JR