



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

COMMERCIAL APPEAL NO. 353 OF 2024

BETWEEN:

1. M/S. APYA CAPITAL SERVICES PRIVATE LIMITED
A COMPANY INCORPORATED
UNDER THE PROVISIONS OF
COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE AT
FLAT NO. 22, TOWER 6, PEBBLE BAY
RAJ MAHAL VILAS II
RAMAKRISHNAPPA LAYOUT
NAGASHETTY HALLI
BENGALURU - 560 094
REPRESENTED BY ITS
AUTHORIZED SIGNATORY
MR. BASAVARAJ R PURAD

ALSO AT:
NO. 609, 3RD FLOOR, 12TH MAIN
7TH CROSS, HAL 2ND STAGE
INDIRANAGAR
BANGALORE - 560 038

...APPELLANT

(BY SRI CHINTAN CHINNAPPA M., ADVOCATE)

AND:

1. M/S. SBR INFRA BUILDTECH
A PARTNERSHIP FIRM
HAVING ITS OFFICE AT SY.NO. 24/5

Digitally
signed by
AMBIKA H B

Location:
High Court
of Karnataka



SBR HORIZON
SEEGEHALI, BENGALURU URBAN
KARNATAKA, BANGALORE - 560 067
REPRESENTED BY ITS
MANAGING PARTNER
MR. T. VENUGOPAL

...RESPONDENT

(BY MS. LEKHA JAIN, ADVOCATE FOR
SRI SIDDHARTH SUMAN, ADVOCATE)

THIS COMMERCIAL APPEAL IS FILED UNDER SECTION 13 (1A) OF THE COMMERCIAL COURTS ACT 2015 UNDER SECTION 37 (1) (B) OF THE ARBITRATION AND CONCILIATION ACT, 1996 PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 24/08/2024, PASSED BY THE LXXXIII ADDL. CITY CIVIL AND SESSIONS JUDGE (CCH-88) AT BENGALURU IN COM.A.A. NO.148/2024 (ANNEXURE-A), ACCEPTING THE SECURITY, INDEMNITY BOND FURNISHED BY THE RESPONDENT AND CONSEQUENTLY, DIRECT RESPONDENT TO FURNISH A BANK GUARANTEE FOR THE AMOUNT OF RS.10 CRORES TO THE APPELLANT OR DEPOSIT THE ENTIRE AMOUNT BEFORE COMMERCIAL COURT (LXXXVIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-88) & ETC.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant has filed the present appeal under Section 37(1)(b) of the Arbitration and Conciliation Act, 1996 [**A&C Act**] impugning an order dated 24.08.2024 passed by the learned



LXXXVII ACC and Sessions Judge (Commercial Court), Bengaluru
[**Commercial Court**] in Com.A.A. No148/2024.

2. The appellant had filed the said petition under Section 9 of the A&C Act seeking interim measures of protection. The said application was disposed of by an order dated 10.06.2024, whereby the respondent was restrained from selling, alienating, encumbering, or creating third-party rights in respect of the properties described as the 'C' schedule property. Aggrieved by that order, the respondent filed an appeal before the Division Bench of this Court, being Commercial Appeal No.225/2024. The said appeal was decided by an order dated 26.07.2024, whereby the following directions were issued:

"25. Hence, the following interim measures are passed:

(i) The appellant shall furnish security to the tune of Rs.10.00 crores (Rupees Ten Crores only) to the satisfaction of the Commercial Court. Any security offered shall be free from all or any encumbrance and the respondent shall have first charge over the same.

(ii) Till furnishing of security as ordered, the appellant shall not alienate, or create any third party charge over the properties, excluding 6% of the properties over which appellant has exclusive right to sell.

(iii) On acceptance of security the appellant is permitted to sell or otherwise deal with the properties, and on sale or receipt of the installment amount from 210 purchasers brought by the respondent, the



amount/commission due to the respondent under the agreement dated 19.10.2022, shall be paid within 15 days from such receipt of the sale consideration and on such payment, the value of the security offered by the appellant shall stand reduced proportionately.

(iv) Even in case, the appellant fails to offer security as mentioned above, the appellant is entitled to sell 6% of the properties without any restrictions, as such right is recognised under the agreement dated 19.10.2022.

(v) As suggested by both parties Sri Justice Ajit Gunjal (subject to his consent and availability) is appointed as the sole arbitrator to adjudicate the dispute between the parties.

(vi) The interim measure shall be in force till 30 days from the date of receipt of the notice by the Arbitral Tribunal or till any interim order is passed by the Arbitral Tribunal whichever is earlier.

(vii) The parties are at liberty to move the Arbitral Tribunal for appropriate interim measures under Section 17 of the Act of 1996.

(viii) If any application is filed before the Arbitral Tribunal for appropriate interim measures, the same shall be considered by the Arbitral Tribunal without being influenced by any of the observations made in this order as all observations made in this order are only confined to the application under Section 9 of the Act of 1996. "

3. Pursuant to the said directions, the respondent furnished details of four units which would be retained as security for an amount that may be found payable to the appellant. The tabular statement setting out the said properties is reproduced below:



:SCHEDULE 'B' PROPERTY:

Units Provided as Security

SL. No.	FLAT No.	TOWER	BHK	SBA	Terrace Area	Price @ 9500/Sq. Ft.	Terrace @Base Price 6599/ Sq. Ft.	Total Cost of the Unit	Unit belongs to
1	A-507	A	2 BHK	945	-	89,77,500	-	89,77,500	SBR Infra Buildtech
2	B-1307	B	2 BHK	945	-	89,77,500	-	89,77,500	SBC Future
3	A-2508	A	Pent House	3767	1069	3,57,86,500	70,54,331	4,28,40,831	SBR Infra Buildtech
4	A-2509	A	Pent House	3767	1069	3,57,86,500	70,54,331	4,28,40,831	SBR Infra Buildtech
Grand Total								10,36,36,662	

4. The appellant raised certain objections regarding the security furnished by the respondent. First, it states that the flat No.B-1307 belongs to M/s SBC Future and is not owned by the respondent; therefore, the same could not have been offered as security. Second, it submits that the other units are mortgaged to Piramal Trusteeship Services Private Limited; therefore, the respondent has no right to offer them as security. Third, it is submitted that the area of two units also include terrace area of 1069 sq. ft. each, which is a common area belonging to all flat owners. And fourth, it is submitted that the units offered are not in accordance with the sanctioned plan.



5. The learned counsel appearing for the respondent submits that M/s SBC Future is a firm, and its managing partner, who also owns 90% interest in the said firm, has signed the indemnity bond. She submits that there is no difficulty in also filing a statement of affirmation by the remaining partners of M/s SBC Future as well. Second, she submits that the terrace areas referred to are attached to the particular units (penthouse) and are included in the consideration at which such units are sold. Third, she states that the units as offered are in accordance with the sanctioned plan.

6. We do not consider it necessary to examine the contentions advanced and the issues in these proceedings essentially for two reasons. First, that the Arbitral Tribunal has been constituted and therefore, the parties are not precluded from approaching the Arbitral Tribunal for any interim measures of protection under Section 17 of the A&C Act. Second, we note that in terms of the directions, this Court had clarified that the interim measures of protection as directed would be in force for a period of 30 days from the date of receipt of the notice by the Arbitral Tribunal or till an interim order is passed by the Arbitral Tribunal, whichever is earlier. Thus, *sensu stricto*, the order's duration has expired.



7. In the event the parties desire any orders regarding interim measures of protection, it will be necessary for them to approach the Arbitral Tribunal.

8. In the aforesaid circumstances, we consider it apposite to dispose of the present appeal, leaving it open for the parties to approach the Arbitral Tribunal to seek any interim measures of protection or the vacation/modification of the measures as ordered. We further direct that if any such application is filed before the Arbitral Tribunal, the same would be considered on its own merits. All rights and contentions of the parties are reserved.

9. The pending interlocutory application also stands disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**