



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Civil Miscellaneous Appeal No. 4330/2024

Galvano India Private Limited, Having Registered Office At E, 95-97, Upsidc Surajpur Industrial Area, Distt. Gautambudh Nagar Greater Noida, Uttar Pradesh-201306 Through Its Authorised Representative Mr. Ashutosh Srivastava R/o 1503, Tower T-3, Mcc Signature Heights, Raj Nagar Extension, Ghaziabad, Uttar Pradesh- 201017

-----Appellant

Versus

1. West Central Railway, Through Cpm-2, Kota Division Having Registered Address At Cpm-2, Gsu Kota, West Central Railway Railway Colony, Railway Station Area, Kota, Rajasthan 324002
2. Bank Of India, Vikaspuri Branch, M-125, Budella, Vikaspuri, New Delhi, Delhi, 110018

-----Respondents

For Appellant(s) : Mr. Jatin Sehgal, Adv.
Mr. Ashish Garg, Adv.
Ms. Simran Bajaj, Adv.

For Respondent(s) :

**HON'BLE MR. JUSTICE PANKAJ BHANDARI
HON'BLE MR. JUSTICE PRAVEER BHATNAGAR
Order**

22/10/2024

1. Office has pointed out a defect that no order has been passed by the Court so as to entertain the appeal under Section 37 as there is neither refusal nor grant of any interim measure under Section 9 of the Arbitration and Conciliation Act.
2. It is contended by counsel for the appellant that issuing of notice tantamounts to refusal to grant ex-parte interim measure. In this regard, counsel for the appellant has placed reliance on judgment of the Apex Court **Mr. P. Lavakumar Vs. Madhu H.V. and Ors., 2024 SCC Online Kar 65**, wherein, it has been held that while declining ex-parte interim measure and ordering issuance of notice to the respondent, the Court must arrive at a

prima facie conclusion that the object of issuing ex-parte interim measure would not be defeated by delay caused in issuing notice to the opponent, before considering the prayer for interim measure. Thus, if the Court takes a view that there are no grounds to pass the 'ex-parte interim order', said view and consequent order declining 'ex-parte interim measure' is in the nature of the final order as the relief of 'ex-parte order' prayed by the applicant is declined once for all in the said proceeding.

3. It is contended that a prayer was made before the Commercial Court for grant of ad-interim injunction but the same was declined and only notice was issued. However, no order was passed for declining the prayer of ex-parte interim measure.

4. We have considered the contentions. The controversy involved is only of not adjudicating the prayer for ad-interim relief and issuance of notice and for posting the matter on 14.11.2024.

5. In view of the above, we deem it proper to direct the Commercial Court to hear the appellant on the question of ad-interim-injunction. The appellant is directed to appear before the Commercial Court, Kota on 24.10.2024.

6. Registrar (Judicial) is directed to send a copy of this order to the Commercial Court, Kota by Fax and the Commercial Court is directed to take up the matter on 24.10.2024 itself and decided the prayer ad-interim relief.

7. Accordingly, the instant appeal stands disposed of.

(PRAVEER BHATNAGAR),J

(PANKAJ BHANDARI),J