

06.05.2025
Item No.07
Court No.37.
S. De

AO-COM 6 2025
With
I.A. No. CAN/1/2025
M/s. Windiesel Services Private Limited.
Vs.
M/s. Summit Alliance Port East Gateway (I) Private
Limited.

Mr. Asit Hussain,
Ms. Sujata Choudhury,
Ms. Shreyasi Nath, ...for the appellant.

Dictated by Arijit Banerjee, J.

1. The appellant has come up against an order dated April 22, 2025, passed by learned Judge, Commercial Court at Alipore in Misc Arbitration (Com) 23 of 2025.
2. The appellant says that he is the lessee under the respondent in respect of a Terminal Rental Agreement. As per the Agreement, the respondent herein was required to provide approximately 100,000 square feet of space for storage of containers. In fact, however, about 86,000 square feet has been provided by the respondent. Now disputes have arisen between the parties and the respondent is not allowing the petitioner access to the concerned premises. The goods of the petitioner's clients are lying stored in the concerned premises and the petitioner is answerable and accountable to them.

3. Hence, the petitioner approached the learned Trial Court with an application under Section 9 of the Arbitration and Conciliation Act, 1996, in view of the Agreement between the parties containing arbitration clause. The petitioner, inter alia, prayed for an order directing the respondent to allow the petitioner access to the concerned premises so that the petitioner can run its business.
4. The learned Judge, at the *ex parte* stage, restrained the respondent from entering into any fresh arrangement with any third party or in any other manner letting out or granting license in respect of the subject premises till the next date. However, no mandatory order was passed on the respondent to allow the petitioner access to the concerned premises. Being aggrieved, the petitioner is before us.
5. The respondent has not been served since no Caveat has been filed by the respondent.
6. The petitioner has come up against an *ex parte* order not granting its prayer for a direction on the respondent to allow it access to the concerned premises. We are told that a copy of the order and the pleadings have been served on the respondent. The learned Trial Judge has fixed June 23, 2025, as the next date.

7. Since the matter is pending before the learned Trial Court, we are not inclined to entertain this appeal at this stage. However, we grant liberty to the petitioner to renew its prayer before the learned Trial Judge, in the presence of the respondent. We further request the learned Trial Court to consider the petitioner's prayer within a fortnight from the date of communication of this order by the petitioner to the learned Trial Judge.
8. We make it clear that we have not gone into the merits of the case. The learned Trial Court is requested to dispose of the aforesaid issue, in accordance with law, upon hearing both the parties.
9. AO-COM 6 2025 is disposed of along with the application being I.A. No. CAN/1/2025.

(Om Narayan Rai, J.)

(Arijit Banerjee, J.)