

26.06.2025
Item No.01
Court No.37.
S. De

**F.M.A.T. (ARBAWARD) 20 of 2025
I.A. No.CAN/1/2025**

**Prodipan Sengupta.
Vs.
Kotak Mahindra Bank Limited.**

Mr. Anirban Bose,
Mr. Suvadeep Sen,
Mr. Satyajit Senapati,
Mr. Dipanjan Karmakar, ...for the appellant.

Mr. Dhilan Sengupta,
Mr. Ayan Chakraborty,
Ms. Sohini Mukherjee, ...for the respondent.

Dictated by Arijit Banerjee, J.

1. Affidavit-of-service filed in Court today, be kept with the records.
2. The appellant challenges an interim order dated March 29, 2025, passed by a learned sole arbitrator under Section 17 of the Arbitration and Conciliation Act, 1996.
3. It appears that the appellant borrowed money from the respondent finance company. Disputes have arisen regarding repayment of the loan. The appellant says that the respondent unilaterally appointed an arbitrator. Even the purported arbitration clause may not be an arbitration clause in the eye of law. The appellant's application under Section 16 of the 1996 Act, challenging the jurisdiction of the arbitrator, is pending before the Tribunal. In the

mean time, an ex parte interim order has been passed by the arbitrator, the operative portion whereof reads as follows :

“(a) TONMOY ROY i.e. the employee/authorized representative of the claimant is appointed as receiver for taking possession and custody of the movable properties of the respondent including the assets mentioned below in Schedule 1 and for which purpose the said receiver is hereby authorized to take necessary assistance of the jurisdictional police.

(b) The receiver while taking possession/custody of the movable properties of the respondent shall make a list of the same/Panchnama, containing the inventory of the articles (movable properties) mentioning its/their details/description, which are taken in possession/custody. The receiver would provide a copy of the same to the respondent or his/her representative whosoever present at the relevant time. The receiver shall keep the said immovable properties/articles in safe custody until further order.

Schedule A

Schedule of properties :

List of assets and goods : TV, Fridge, Washing Machine, Air conditioner, Cot, Sofa Set, Table & Chairs, Laptop, Mobile Phone, DVD and Audio System, up to the value of Rs.509575.47.”

4. Learned advocate for the appellant also tells us that his client has received a letter dated June 16, 2025, from the advocates representing the respondent herein. By the said letter, the appellant has been called upon to participate in

conciliation proceedings before the conciliator named in the letter.

5. The respondent is also represented through learned counsel.
6. We are of the view that the parties should try out conciliation. The appellant says that he will participate in such proceeding.
7. We however, feel that pending conciliation, the interim order passed by the arbitrator should be modified.
8. Accordingly, we modify the interim order to the extent that the receiver appointed by the arbitrator should only make inventory of the articles mentioned in the order and take symbolic possession thereof without taking actual physical possession. The receiver shall also not interfere with the business activities of the appellant pending termination of the conciliation proceeding.
9. In the event, the conciliation proceeding succeeds, nothing like it. The disputes between the parties shall stand resolved in terms of the result of the conciliation. In the event, such proceedings fail, the arbitrator may proceed with the arbitration but shall first decide the issue of his jurisdiction as raised by the appellant herein

in his application under Section 16 of the Arbitration and Conciliation Act.

10. The appeal being FMAT (ARBAWARD) 20 of 2025 is, accordingly, disposed of along with the application being CAN 1 of 2025.

(Om Narayan Rai, J.)

(Arijit Banerjee, J.)