

12.08.2025
Item No.02
Court No.37.
S. De
266301

AO-COM 21 of 2025
With
I.A. No. CAN/1/2025

M/s. Summit Alliance Port East Gateway (I) Private Limited.
Vs.
M/s. Windiesel Services Private Limited.

Mr. Nilanjan Bhattacharjee, Sr. Adv.,
Mr. Subhabrata Chowdhury,
Ms. Tripti Pandey, ...for the appellant.

Mr. Asit Hussain,
Ms. Sujata Choudhry, ...for the respondent.

Dictated by Arijit Banerjee, J.

1. This appeal is directed against an order dated June 17, 2025, passed by the learned Judge, Commercial Court at Alipore, in Misc. Arbitration (Com) 23, 2025, being an application under Section 9 of the Arbitration and Conciliation Act, 1996, filed by the respondent herein. The operative portion of the said order reads as follows :

“i. That, the respondent is hereby directed to allow the petitioner’s uninterrupted ingress and egress to and from the premises situated at IWAI, Garden Reach Terminal, Garden Reach Jetty 2, Kolkata-700043, and to ensure peaceful and undisturbed possession and occupation of the said

premises by the petitioner upon paying the last paid monthly rent and further directed not to unilaterally enhance the storage charges, handling charges, or any other fees/charges in derogation of the agreed contractual terms dated 24th January 2024 until the further order of the Ld. Arbitral Tribunal.

ii. That, the respondent is also directed to be restrained from interfering in the day-to-day business operations of the petitioner at the leased premises, including but not limited to obstruction of entry and exit of trucks, containers, vehicles, labourers, and personnel associated with the petitioner until the further order of the Ld. Arbitral Tribunal.

iii. That, the respondent is further directed to be restrained from entering into any fresh arrangements with any third parties, including Bengal Marine Container Services Pvt. Ltd., or in any other manner letting out or licensing the subject premises which are under lease to the petitioner until the further order of the Ld. Arbitral Tribunal.

iv. During the pendency of formation of the Arbitral Tribunal, in case of any exigency regarding the law-and-order situation of the aforesaid leased premises, the petitioner may approach to the jurisdictional Police Station and the concerned Officer-in-charge of the said Police, Station is hereby directed to take all possible necessary steps in accordance with law so as to fructify the directives as enumerated in the instant order of this Court.

v. Parties are further directed to take necessary steps in respect of constitution and/or formation of the Arbitral Tribunal to mitigate their prevalent dispute forthwith.

In view of above, the instant case being Misc Arb (Com) No.23 of 2025 is hereby disposed of.”

2. Being aggrieved, the respondent in the Section 9 application has come up by way of this appeal.
3. We are told that after passing of the said order, on an application made under Section 11 of the 1996 Act, an Arbitral Tribunal has been constituted, by this Court. We, therefore, refrain from addressing the merits of the case.

4. We direct the learned Arbitral Tribunal to decide whether or not the interim order or any portion thereof that has been obtained by the respondent in this appeal should continue or whether or not any other interim order is warranted. This the Tribunal will do naturally after hearing both the parties. Such decision should be taken within four weeks from the date of communication of this order by the parties to the learned Tribunal. The interim order passed by the learned Trial Court shall continue till a decision has been taken by the learned Tribunal in this regard.
5. The Tribunal shall treat the pleadings that the parties had filed before the Section 9 Court as pleadings filed before the Tribunal for the purpose of deciding whether or not the interim order should continue or any other interim order should be passed.
6. The parties will be at liberty to file supplementary pleadings before the Tribunal to bring on record developments that have taken place subsequent to passing of the order by the learned Trial Court. The same may be done within a week from date.
7. We clarify, we have not gone into the merits of the case. The learned Tribunal shall take an independent and informed decision in

accordance with law, without being influenced by any observation in this order or in the order of the learned Trial Court.

8. A.O.-COM 21 of 2025 is, accordingly, disposed of along with the application being I.A. No. CAN 1 of 2025.

(Om Narayan Rai, J.)

(Arijit Banerjee, J.)