

D/L
Item No. 05
05.08.2025
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**AO-COM 25 of 2025
With
CAN 1 of 2025**

**Central Public Works Department & Anr.
-Vs.-
M/s. Harpal Singh**

*Mr. Dhiraj Trivedi, Ld. DSGI,
Mr. S. Ghosh,*

...for the appellants.

*Mr. Suddhasattva Banerjee,
Mr. S. Nayek,
Mr. D. Das,
Mr. M. Bhattacharyya,
Ms. R. Bhowmick,*

.... For the respondent.

Affidavit of service filed by the appellants in court today
be kept with the records.

Supplementary affidavit filed by the appellants be also
kept with the records.

Under challenge in this appeal is an order dated June 25, 2025, passed by the Learned Judge, Commercial Court at Alipore in Misc. Arbitration (COM) 37 of 2025. By the said order, the appellants herein (in short 'CPWD') have been restrained from taking any step or further step pursuant to or in terms of the order dated June 13, 2025, whereby CPWD terminated the contract that had been awarded to the respondent for constructing a G+6 storeyed guest house for Indian Association for Cultivation of Science, an educational institution.

It appears that the respondent herein participated in the relevant tender process and emerged as the successful

bidder. Accordingly, the aforesaid contract was awarded in his favour. However, on the alleged basis that the respondent was not performing his obligations under the contract, the CPWD after issuing show-cause notice, terminated the contract by an order dated June 13, 2025.

The contract between the parties contains an arbitration clause for resolution of disputes between the parties. The respondent herein approached the learned Trial Court with an application under Section 9 of the Arbitration and Conciliation Act, 1996 for *ad interim* relief. By the order impugned which was passed *ex parte*, the learned Trial Court restrained CPWD from giving any effect to the termination order or invoking or encashing the concerned bank guarantee which had been furnished by the respondent by way of security deposit and performance guarantee.

It appears that the said order was served on the CPWD on June 26, 2025. CPWD has filed an application for vacating the said order. It has also filed its objection to the Section 9 petition filed by the present respondent.

It appears that on July 25, 2025, the matter was listed before the learned Trial Court. However, the matter was adjourned and August 12, 2025, has been fixed as the next date.

Appearing for the appellants, Mr. Trivedi, learned DSGI, submits that a project of public importance has been held up by reason of the *interim* order that has been passed by the learned Trial Court. With reference to Section 20A of the Specific Relief Act, 1963 read with the Schedule thereto,

learned DSGI submitted that the *interim* order is on the face of it illegal as it is contrary to the prohibition in Section 20A of the 1963 Act.

Disputing such contention, learned Advocate appearing for the respondent says that the contract in question is not an infrastructural contract within the meaning of Section 20A of the Specific Relief Act because the contract contemplates merely construction of a guest house.

Mr. Trivedi appears to be having an arguable case. However, we do not express any opinion on the merits of the case since we see that the matter has been fixed for hearing before the learned Trial Court on August 12, 2025. We direct the learned Trial Court to positively take up the matter for hearing on August 12, 2025 and if possible dispose of the matter on the very same day. If not, then the matter should be heard on a day to day basis i.e., on August 13 and August 14, 2025, so on and so forth. The preliminary point of whether an injunction of the nature that has been granted could be granted by the learned Trial Court in view of Section 20A of the Specific Relief Act, should be decided as a preliminary issue.

We further make it clear that if for any reason the Presiding Officer of the concerned Court is absent on August 12, 2025, then the Judge-in-Charge shall hear out the matter in terms of this order.

Since we have not addressed the merits of the case, the learned Trial Court shall decide the application under Section 9 of the 1996 Act as well as the vacating application filed by the

CPWD in accordance with law without being influenced by any observation in this order.

The appeal and the connected application are, accordingly, disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Om Narayan Rai, J.)