

11.09.2025
Item No. 4.
Court No.37.
AB
(Bench ID 266311)

FMAT (ARBAWARD) 42 of 2025
With
CAN 1 of 2025

Infant Jesus Engineering Works
Private Limited & Others
Vs
Ugro Capital Limited

Ms. Malini Chakrabortyfor the Appellants.

Ms. Soni Ojhafor the Respondent.

Dictated by Arijit Banerjee, J.

1. This appeal is directed against an order dated August 8, 2025, passed by the learned Judge, Bench II, City Civil Court at Calcutta in Misc. Case No.10746 of 2025, being an application under Section 9 of the Arbitration and Conciliation Act, 1996, filed by the respondent herein against the appellants.
2. It appears that there was a loan cum hypothecation agreement between the parties in respect of certain engineering equipment. Alleging that the appellants have defaulted in payment of agreed installments, the respondent herein approached the learned Trial Court for appointment of Receiver over the concerned equipment. By the impugned order, the learned Trial Court has appointed Receiver to take actual possession of the concerned equipment.

This order was passed ex parte. Upon coming to know of the order, the appellants have come up by way of this appeal.

3. We have heard learned advocates for the parties.

We are of the view that there is an element of settlement in the matter. The parties should try out mediation. Learned Advocates for the parties agree to our suggestion.

4. We direct the Member Secretary of the High Court Mediation Committee to appoint a trained Mediator to mediate between the parties hereto. The Mediator shall file his report within a month of the first sitting before the learned Trial Court where the application under Section 9 of the 1996 Act is pending. Due and sufficient notice of the mediation sittings will be issued to the parties or to their learned Advocates.

5. We dispose of this appeal and the connected application by modifying the order under appeal to the effect that the Receiver appointed by the learned Trial Court may take symbolic possession and not actual physical possession of the concerned equipment. The appellants are permitted to use the concerned equipment for their business. However, they are restrained from selling or creating any third party interest in respect of or otherwise dealing with the said

equipment without leave of the learned Trial Court.

6. In the event the mediation succeeds, the learned Trial Court shall pass appropriate final order in terms of the agreement between the parties. Otherwise, the learned Trial Court shall decide the Section 9 Application in accordance with law upon hearing both parties, without being influenced by any observation in this order.
7. Needless to say, in that event, the respondent shall also be at liberty to initiate arbitration proceedings.
8. In the event the mediation proceeding does not conclude within the period indicated above, the parties will be at liberty to pray for appropriate orders before the learned Trial Court.
9. Registry is directed to communicate this order to the Member Secretary, High Court Mediation Committee. Learned Advocates for the parties shall also be at liberty to communicate this order to the Member Secretary, High Court Mediation Committee.
10. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Om Narayan Rai , J.)

(Arijit Banerjee, J.)

