

ORDER

OCD-13

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION

ORIGINAL SIDE

AP-COM/407/2024

M/S. CHOLAMANDALAM INVESTMENT AND FINANCE COMPANY LIMITED
VERSUS
VISHAL KALANORIA

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 27th February, 2025.

Appearance:

Mr. Aritra Basu, Advocate
... for the petitioner.

Mr. Pratip Mukherjee, Advocate
Mr. Arpit Agarwal, Advocate
Mr. P. Biswas, Advocate
. . . for the respondent.

1. This is an application for injunction under Section 9 of the Arbitration and Conciliation Act, 1996.
2. The petitioner seeks to move this application for interim measures so that the unsecured loan of Rs.19,70,129/- can be protected by this Court by issuing an order of injunction over an immovable property situated at Dum Dum and over bank accounts of the respondent.
3. This Court finds from the pleadings that the petitioner has not been able to prima facie, establish that the respondent was either removing or

alienating any immovable property or siphoning off funds and the unsecured loan advanced by the petitioner to the respondent should be urgently protected by the court. The issues with regard to unilateral selection of the arbitration seat and venue etc. are not relevant. For this Court to pass an injunction under Section 9 of the Arbitration and Conciliation Act, 1996, certain parameters will have to be satisfied by the petitioner. They are:-

- a) There is an urgent need for protection of the secured loan;
 - b) That the respondent have taken steps to divert the funds which are in its bank accounts or sell out immovable property which will render the award, if at all published in favour of the petitioner, to be a paper decree;
 - c) The balance of convenience and inconvenience should tilt heavily in favour of the petitioner;
4. The application was filed some time in February, 2024. On the first occasion, the matter was adjourned to enable the petitioner to come back with certain decisions on the issue of unilateral appointment. The matter has now come up before this Court at the instance of the Court. The matter was not mentioned before this Court.
5. At this juncture, as the petitioner has not been able to demonstrate that, during the pendency of this application before this Court certain developments took place which require immediate intervention by the Court and passing of an order of injunction either on the immovable

property or on the bank accounts of the respondent, which are described in the petition, the prayer for injunction is rejected. The petitioner is at liberty to proceed accordingly for appointment of an Arbitrator and make all interim prayers for injunction or otherwise, before the learned Arbitrator.

6. AP-COM/407/2024 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)