

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Commercial Appellate Division
ORIGINAL SIDE

APOT/217/2025
WITH
AP-COM/489/2025
IA NO: GA-COM/1/2025

SREI EQUIPMENT FINANCE LIMITED
VERSUS
KITPLY INDUSTRIES LIMITED

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE
AND

The Hon'ble JUSTICE OM NARAYAN RAI
Date : 15th September, 2025.

Appearance:

Mr. Mainak Bose, Sr. Adv.
Mr. Somdutta Bhattacharyya, Adv.
Mr. Prithwish Roy Choudhury, Adv.
Ms. Debomita Sadhu, Adv.
...for the appellant

Mr. Ratnanko Banerji, Sr. Adv.
Mr. Suman Dutt, Sr. Adv.
Mr. Sumanta Biswas, Adv.
Mr. Sk. Saad Nafisul Islam, Adv.
...for the respondent

Dictated by Arijit Banerjee, J.

The Court: This appeal is directed against a judgment and order dated July 2, 2025 passed on an application filed by the appellant herein under Section 9 of the Arbitration and Conciliation Act, 1996.

The appellant claims to have lent and advanced huge sums of money to the respondent, in the region of around Rs.130 crores. The appellant says that presently a sum of about Rs.243 crores is due to it from the respondent. In view of there being an arbitration clause in the loan

agreement between the parties, the appellant approached the Learned Single Judge with the Section 9 application for interim relief.

The Learned Judge secured the claim of the appellant to the extent of injuncting the respondent from dealing with the mortgaged properties and company shares that were pledged to secure the loan in question. The Learned Judge did not grant other prayers made in the Section 9 application. The Learned Judge disposed of the application.

Being aggrieved, the petitioner before the Learned Judge has come up by way of this appeal.

The contention of the appellant is that the appellant should have been permitted to press the other prayers. The application should not have been disposed of without granting that opportunity to the appellant.

Mr. Bose, learned Senior Counsel appearing for the appellant, suggests that the matter be remanded to the Learned Single Judge for being heard out after exchange of affidavits so that the appellant/petitioner has the opportunity of praying for other interim orders. To this course of action, Mr. Banerji, learned Senior Counsel appearing for the respondent, does not have any objection.

Accordingly, without touching the merits of the case and leaving all points open, we resurrect the Section 9 application and request the Learned Single Judge to decide the same after exchange of affidavits.

The respondent will be at liberty to file its affidavit-in-opposition within two weeks after Puja vacation (November 7, 2025). Reply thereto, if any, be filed within two weeks thereafter (November 21, 2025).

The parties will be at liberty to mention the matter before the Learned Single Judge for hearing after exchange of affidavits.

The interim order that is in operation shall continue till December 15, 2025 or until further orders of the Learned Single Judge, whichever is earlier.

Mr. Bose, learned Senior Counsel appearing for the appellant, submits that the findings of the Learned Single Judge in Paragraphs 10 and 11 of the impugned order could not have been arrived at as there was no material in support thereof. We say nothing on that count and only put the submission on record.

The appeal and the application stand disposed of.

(ARIJIT BANERJEE, J.)

(OM NARAYAN RAI, J.)