

OCD-6

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
(Commercial Division)

AP-COM/824/2025

MOHIT MALL
VS
MOTI LAL RATHI

BEFORE:
The Hon'ble JUSTICE GAURANG KANTH
Date : 18th November, 2025.

Appearance

Mr. Avishek Guha, Adv.
Mr. Sounak Mukherjee, Adv.
Mr. Subhajit Das, Adv.
...for the petitioner

Mr. Rohit Banerjee, Adv.
Mr. Sudarshan Kumar Agarwal, Adv.
...for the respondent

The Court: The petitioner has preferred the present Section 9 petition post-award, seeking an order restraining the respondent from alienating, disposing of or creating any their party rights or interests in respect of the properties mentioned in Para 51 of the Section 17 application read with Serial Nos. 1, 2, 3 and 4 of Paragraph 4 of the supplementary affidavit dated 22.01.2024 forming part of Annexure C and D of the present petition.

Learned Counsel for the petitioner submits that the arbitral tribunal passed a final award dated 25.08.2025 wherein a sum of Rs.17,68,925/- was awarded in favour of the petitioner and against the respondent. Learned

Counsel for the petitioner states that the respondent has not, till date, filed any petition under Section 34 challenging the award dated 25.08.2025. The statutory period for challenging the award is still subsisting. The present petition under Section 9 has been filed seeking protection against any alienation or creation of third party right or interest in respect of the aforesaid properties. It is further submitted that during the pendency of the arbitral proceedings, the arbitral tribunal vide order dated 10.02.2024, had restrained the respondent from creating any third party interest over the said properties and had also appointed a Receiver for taking symbolic possession thereof. However, now since the final award has been passed, the petitioner is left without any subsisting protection or security that was earlier awarded by the learned Tribunal.

Learned Counsel for the Respondent submits that the Petitioner had claimed a total sum of Rs. 1,46,75,601.88 along with Rs. 50,00,000/- towards damages before the Arbitral Tribunal. However, the Tribunal has ultimately awarded only Rs. 17,68,925/- towards costs. It is contended that the interim protection granted under Section 17 was based on the entirety of the original claim. Since the final award is for a substantially lesser amount, the Respondent submits that there is no justification for continuing restraints over all the properties mentioned in Paragraph 51 of the Section 17 application, read with Serial Nos. 1 to 4 of Paragraph 4 of the supplementary affidavit dated 22.01.2024 forming part of Annexures C and D to the Petition.

He fairly submits that the property described at Serial No.1 being “Shree Kunj” apartment being flat no. B-101 containing built up area of 1408 sq. ft. at 1st floor, of the Tower “B”, outside Jassusar gate, behind Kothari Medical Hospital, Bikaner, shall duly protect the interest of the petitioner in terms of the awarded money since the valuation of the property on 19th January, 2024, according to the petitioner, was Rs.15,97,554/-. He further states that the property would have appreciated and securing the interest of the petitioner to the tune of Rs.17,68,925/-. He further states that the said property has not been sold and no third party rights have been created. He further undertakes not to alienate or create any third party rights in the property till 28th February, 2026.

This Court has heard the arguments of the Counsel for the parties and has perused the materials on record. The sole Arbitrator vide order dated 25.08.2025 awarded a sum of Rs.17,68,925/- in favour of the petitioner. According to the petitioner, there is no challenge to the said award till date although the period of filing such challenge is still subsisting. It is further stated that the petitioner was earlier protected by an interim order of the arbitral tribunal.

In these circumstances, this Court is of the *prima facie* view that the petitioner has a strong case. The balance of convenience also lies in favour of the petitioner and if the interim protection is not granted, he will suffer irreparable loss and prejudice.

Accordingly, this Court restrains the respondent from alienating, disposing of or creating any third party right or interest in respect of the

property being “Shree Kunj” apartment being flat no. B-101 containing built up area of 1408 sq. ft. at 1st floor, of the Tower “B”, outside Jassusar gate, behind Kothari Medical Hospital, Bikaner till 28th February, 2026.

Affidavit of service filed in Court today is kept with the record.

With the above directions, present petition is disposed of.

(GAURANG KANTH, J.)

R.Bhar