

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8399 OF 2025

Eden Education Society

.....Petitioner

Vs.

M/s. Kakade VTP Associates

.....Respondent

Mr. Surel Shah a/w Mr. Amey Deshpande, Ms. Vandana Bail for
the petitioner

Mr. Ashwin Shete a/w Mr. Abhay Dhadiwal i/b Jayakar and
Partners for the respondent

CORAM : GAURI GODSE, J.

DATE : 25th JUNE 2025

IRESH
MASHAL

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ORDER:

1. Not on board. Taken on production board.
2. This petition is urgently moved as in execution proceedings of arbitral award, the possession warrant is issued. Learned senior counsel for the petitioner submits that the issue regarding arbitrability of the counter claim for possession was raised before the learned Arbitrator. However, it was decided against the petitioner. He submits that in the application under Section 34 of

The Arbitration and Conciliation Act, 1996, the petitioner has raised this issue regarding the arbitrability of the counter claim for possession. To support his submission, he relies upon the decision of this Court in the case of ***BXIN Office Parks India Pvt Ltd. Vs. Kailasa Urja Pvt. Ltd***¹.

3. With regard to the award for outstanding payment is concerned, learned senior counsel for the petitioner, on instructions submits that to show bonafides, the petitioner shall pay an amount of Rs. 40 Lakhs to the respondent by on-line transfer, within four weeks from today. He submits that the possession warrant be stayed till this Court hears the petition.

4. Statement made regarding making payment to the respondent is accepted as an undertaking to this Court. The petitioners are permitted to make the payment of Rs. 40 Lakhs to the respondent by on-line transfer within four weeks from today. It is clarified that this liberty is granted without prejudice to the rights and contentions of the claimant.

5. Till the next date, the possession warrant issued shall not

¹ 2022 SCC OnLine Bom 1689

be executed. It is clarified that if the aforesaid undertaking is not complied with, the ad-interim protection granted by this order shall stand vacated without further reference to the Court.

6. List this petition on 30th July 2025.
7. To be listed high on board in the caption of 'Admission'.

[GAURI GODSE, J.]