IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION NO. 727 OF 2025

Telford Marine DMCC ...Petitioner

Versus

Bhambhani Shipping Limited ...Respondent

Mr. Prashant Pratap, Senior Counsel, *a/w Rishabh Saxena, Sneha Goud, Lavanya Chopra, i/b Bose & Mitra & Co., for the Petitioner.*

Mr. Mayur Khandeparkar, Counsel, *a/w Monika Tanna, Dhara Modi, Nandita Dethe, Harkiratkaur Alhuwalia, Ameya Garud, i/b Singhania Legal Services, for Respondent.*

CORAM : SOMASEKHAR SUNDARESAN, J.
DATE : SEPTEMBER 19, 2025

ORDER :

1. This is a Petition under Section 9 of the Arbitration and Conciliation Act, 1996 ("***the Act***") filed in connection with an award dated June 25, 2025 passed in the Singapore Chamber of Maritime of Arbitration under the Singapore International Arbitration Act. There are two awards – the first partial final award dated October 31, 2024 and the second partial final award dated June 25, 2025.

2. This Petition seeks protective reliefs in respect of the assets of the Respondent, which is a Judgment Debtor in the arbitral award, and

essentially, the Petitioner seeks relief in terms of prayer clauses (c) and (d) which read thus:-

> *(c) or an order and injunction restraining the Respondent from selling and / or transferring and / or leasing and / or mortgaging and / or encumbering in any manner and / or creating any third party rights in respect of the vessel HALANI 6 (IMO No.9125906) wherever the vessel may be lying within or outside India and further restrain the Respondent from moving or sailing the vessel out of the territorial waters of India and / or moving the vessel from its present location;*
>
> *(d) for an order directing the Respondent to disclose on affidavit the following,*
>
> > *i) All immovable properties (encumbered or unencumbered) wherever situated, whether in India or overseas with complete details sufficient to identify the properties. If any of the immovable properties are in any way encumbered, full particulars of such encumbrance/s and the amounts yet due as secured by those properties must be ordered to be disclosed.*
> >
> > *(ii) All movable properties (encumbered or unencumbered), including but not limited to,*
> >
> > > *a. Non-financial: all non-financial movable assets including all particulars of the acquisition or replacement thereof;*
> > >
> > > *b. Financial assets: all investments and demat accounts with full particulars, including holdings (whether in the nature of shares, debentures, stocks, mutual funds, bonds, crypto currencies, liquid funds, or any other instrument of whatsoever nature) and encumbrances, if any, thereon.*

c. Bank accounts: all bank accounts with account numbers, bank names, branches, account types and holding patterns, Fixed Deposits, along with bank statements for the last one year;

d. Bank Lockers: contents of all safety deposit vaults and bank lockers.

(iii) Taxes and Financial Returns: Copies of all tax and financial returns for last three financial years;

(iv) any financial statements which may have been prepared for any financial year after 31st March 2022, whether such financial statements have been audited or not, and to produce these financial statements, whether audited or unaudited;

3. Mr. Pratap, Learned Senior Counsel for the Petitioner would submit that the fruits of the award need to be preserved and he would point to a precarious financial conditions in which the Respondent is placed and would submit that the award would be rendered a paper decree unless urgent protective reliefs are granted by this Court.

4. Mr. Mayur Khandeparkar, Learned Counsel on behalf of the Respondent would submit that the reliefs in terms of injuncting any creation of third party interest on the vessel, namely, HALANI 6 (IMO No.9125906) would be unsustainable inasmuch as the vessel already stands sold to a company called Delta Maritime on March 21, 2025 and requisite applications for regulatory clearances have been filed with the

Director General. Shipping, Provident Fund Commercial Office and the Mercantile Marine Department. He would submit that the transfer of the vessel has already been contracted to discharge the dues owed to Saraswat Bank and a sum of Rs.4.6 crores which represents the consideration for such sale would be paid out directly to Saraswat Bank. The vessel is said to be in the physical possession of the said Delta Maritime, and therefore, he would submit that any prayer for relief against the vessel is already rendered infructuous.

5. That apart, Mr. Khandeparkar, would raise a legal submission. According to him, the award has not yet become binding within the meaning of the term under Section 48(1)(e) inasmuch as the right to challenge the award in Singapore is still available to him and the deadline for such challenge is September 25, 2025 which he has instructions to submit, is under preparation. He would point to the provisions of Section 36 (contained in part 1 of the Act) to point out that the expiry of the time period for mounting a challenge is a vital element before which an award cannot be enforced and executed.

6. He would submit that the availability of such interlude of time is a fundamental public policy of India and therefore grant of reliefs in the interregnum would be contrary to the fundamental public

policy of India. He would also point to Section 2(2) of the Act to contend that an international award has to become enforceable and recognized under the provisions of Part II of the Act for the provisions of Section 9 to apply to such awards.

7. Mr. Pratap, on the other hand would point out that such a reading of Section 36 would render negatory the other element of the policy underlying Section 9 of the Act. Pointing to Section 9(1), he would submit that the provision entitles any party to approach the Court for protective reliefs before, during or any time after the making of an arbitral award, but it is enforced in accordance with Section 36. He would submit that the very scheme of Section 9 read with Section 36 of the Act would render Section 9 nugatory if the position canvassed by Mr. Khandeparkar were to be accepted. He would submit that it is a well thought of scheme that the jurisdiction under Section 9 is available in fact during the interregnum i.e. between the period in which the award becomes finally enforceable and after the award has been made.

8. Since, no returns have been filed by the Respondent for the three years and attempts to sell the vessel have been noticed after the making of the partial award dated October 31, 20224, the Section 9 Petition has been filed. He would also point to a transcript of the

Register under the Merchant Shipping Act, 1958 which would point to the vessel still being in the name of the Respondent and not yet having been sold.

9. Having heard the parties and having examined the submissions, it is evident that during the pendency of the arbitration proceedings the only asset of the Respondent, namely, the aforesaid vessel was sought to be sold and is now confirmed to be sold. There is no doubt that if the only vessel that is the asset of the company has been sold, the company would indeed perhaps been in a precarious position, which is also underlined by the fact that the proceeds of the sale are being directly paid to the lender in discharge of the dues of the Respondent.

10. In these circumstances, case has been made out for the vulnerability of the Petitioner in enjoying the fruits of the arbitral award. What remains to be dealt with is the legal position raised by Mr. Khandeparkar which according to him would point to the Section 9 Court having no power to grant any protective relief until the expiry of the time for challenge to the arbitral award takes place in the teeth of such vulnerability.

11. I am unable to agree *prima facie* with the proposition canvassed by Mr. Khandeparkar. The very scheme of Section 9 would entail protection being accorded to a Judgment Creditor after the award is made and before it is enforced. Section 9 cross references to Section 37 and therefore it would not be *prima facie* reasonable to interpret Section 36 in a manner that unless and until the expiry of the period of challenge takes place, no interlocutory protective relief be granted.

12. The tenure of jurisdiction under Section 9 is also a pointer. Section 9 entails an interim protection normally for a period of 90 days which would typically correspond with any interregnum period between the making of the award and enforcement of the award. It is when the Part II Petition is finally heard and the award is declared to be enforceable, that a final view would be taken on the international award. Pending that if a party is permitted to dissipate its assets and resources, the very scheme of Section 9 would stand undermined.

13. *Prima facie*, I am not able to accept the proposition that the Section 9 Court has no basis for granting any reliefs whatsoever. Likewise, a reference to Section 2(2) would indicate that subject to an agreement to the contrary, the provisions of Section 9 would be available for an international commercial arbitration. This has to be

purposively construed within the same legislative policy scheme that actually deals with Section 9, which cross refers to Section 36.

14. *Prima facie*, if the arbitral award made or the words used in Section 2(2) contains the phrase wherein an arbitral award "made or to be made" it would indicate that even when an arbitral award is to be made which is likely to be enforceable in India, Section 9 may be invoked. Interlocutory protective relief to ensure that the subject matter of the arbitration agreement is preserved, is available under Section 9.

15. Be that as it may, it is apparent that the only vessel owned by the Respondent is said to have been sold. The Respondent shall file an affidavit providing evidence of such sale and the terms of such sale in a reply to the Section 9 within a period of one week from the upload of this order. The Petitioner may deal with the contents of the same in a rejoinder within a week thereafter. In the interregnum, ad-interim reliefs in terms of prayer clause (d), which is extracted above, would follow.

16. As regards, the proceeds of the sale of the only vessel owned by the Respondent is concerned, the statement made by Mr. Khandeparkar that the proceeds would entirely go towards a discharge of a secured debt to Saraswat Bank is taken on record as submissions

made on instructions of his client. The basis of making the statement including documentary support shall also be set out in the affidavit in reply which the Respondent is directed to file.

17. Stand over to ***October 10, 2025***. The disclosure shall be made within a period of one week from the upload of this order.

18. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]