



Original Application No. 349 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.06.2025**

CORAM

THE HONOURABLE Mr. JUSTICE ABDUL QUDDHOSE

Original Application Nos. 349 to 351 and 356 of 2025

Original Application No. 349 of 2025:-

M/s.HDB Financial Services Limited
Having one of its branch office at
4th Floor, Loyal Towers
No.68/2, Greams Road, Chennai-600006
Represented by its Authorised Signatory
Mr.P.Saravanan

... Petitioner

Vs.

1. Suresh Ganesan
2. Ganesan Arunachalam

... Respondents

PRAYER: Original Application filed under Order XIV Rule 8 Original Side Rules read with Section 9(ii)(d)&(e) of the Arbitration and Conciliation Act, 1996, praying to pass an order of interim injunction restraining second respondent by himself, his servants, assigns, agents, representatives, officers, trustees, beneficiaries, administrator/s or any other person claiming through or under them and under any instrument, whatsoever, from in any manner selling, alienating, transferring, parting



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with the possession of, dealing with, disposing of, inducting anyone into or developing or creating any third party right or interest of whatsoever nature and in any manner whatsoever in respect of their property more fully described in the schedule hereunder.

For Applicant : Mr.Arunachalam Meyyappan

For Respondents : Set exparte

Original Application No. 350 of 2025:-

M/s.HDB Financial Services Limited
Having one of its branch office at
4th Floor, Loyal Towers
No.68/2, Greams Road, Chennai-600006
Represented by its Authorised Signatory
Mr.P.Saravanan

... Petitioner

Vs.

1. Ramesh Muttineni
2. Muthineni Sindhu

... Respondents

PRAYER: Original Application filed under Order XIV Rule 8 Original Side Rules read with Section 9(ii)(d)&(e) of the Arbitration and Conciliation Act, 1996, praying to pass an order of interim injunction restraining second respondent by himself, his servants, assigns, agents, representatives, officers, trustees, beneficiaries, administrator/s or any other person claiming through or under them and under any instrument, whatsoever, from in any manner selling, alienating, transferring, parting



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For Applicant : Mr.Arunachalam Meyyappan

For Respondents : Set exparte

Original Application No. 351 of 2025:-

M/s.HDB Financial Services Limited
Having one of its branch office at
4th Floor, Loyal Towers
No.68/2, Greams Road, Chennai-600006
Represented by its Authorised Signatory
Mr.P.Saravanan

... Petitioner

Vs.

1. P.Sathiyaraj, S/o.Perumal.M
2. Perumal
3. Selvarasu.M

... Respondents

PRAYER: Original Application filed under Order XIV Rule 8 Original Side Rules read with Section 9(ii)(d)&(e) of the Arbitration and Conciliation Act, 1996, praying to pass an order of interim injunction restraining first respondent by himself, his servants, assigns, agents, representatives, officers, trustees, beneficiaries, administrator/s or any other person claiming through or under them and under any instrument, whatsoever, from in any manner selling, alienating, transferring, parting



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with the possession of, dealing with, disposing of, inducting anyone into or developing or creating any third party right or interest of whatsoever nature and in any manner whatsoever in respect of their property more fully described in the schedule hereunder.

For Applicant : Mr.Arunachalam Meyyappan

For Respondents : Set exparte

Original Application No. 356 of 2025:-

M/s.HDB Financial Services Limited
Having one of its branch office at
4th Floor, Loyal Towers
No.68/2, Greams Road, Chennai-600006
Represented by its Authorised Signatory
Mr.P.Saravanan

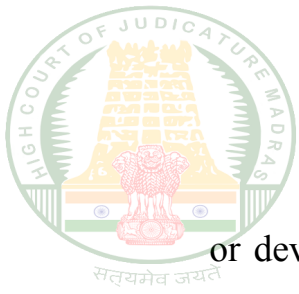
... Petitioner

Vs.

1. M.Sivakannan
2. M.Irisammal

... Respondents

PRAYER: Original Application filed under Order XIV Rule 8 Original Side Rules read with Section 9(ii)(d)&(e) of the Arbitration and Conciliation Act, 1996, praying to pass an order of interim injunction restraining second respondent by himself, his servants, assigns, agents, representatives, officers, trustees, beneficiaries, administrator/s or any other person claiming through or under them and under any instrument, whatsoever, from in any manner selling, alienating, transferring, parting with the possession of, dealing with, disposing of, inducting anyone into



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or developing or creating any third party right or interest of whatsoever nature and in any manner whatsoever in respect of their property more fully described in the schedule hereunder.

For Applicant : Mr.Arunachalam Meyyappan

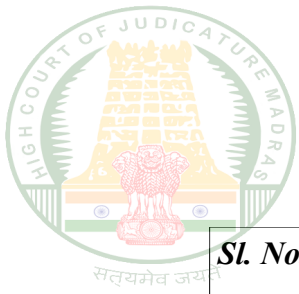
For Respondents : Set exparte

COMMON ORDER

These applications have been filed under Section 9 of the Arbitration and Conciliation Act, 1996 seeking for an order of interim injunction to restrain the respective respondents from alienating /encumbering the respective properties more fully described in the schedule to the judges summons of the respective applications.

2. In all these applications, the applicant is having the benefit of the arbitral awards passed in their favour. The details of the arbitral award passed in their favour pertaining to the applications are as follows:-

<i>Sl. No.</i>	<i>Application No</i>	<i>Applicant Name</i>	<i>Arbitral Award date</i>	<i>Arbitral Award Amount</i>
1.	O.A. No. 349 of 2025	M/s.HDB Financial Services Limited	15.11.2021	Rs.22,11,348/-



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Sl. No.	Application No	Applicant Name	Arbitral Award date	Arbitral Award Amount
2.	O.A. No. 350 of 2025	M/s.HDB Financial Services Limited	23.06.2023	Rs.11,99,775/-
3.	O.A. No. 351 of 2025	M/s.HDB Financial Services Limited	27.07.2022	Rs.8,11,587/-
4.	O.A. No. 356 of 2025	M/s.HDB Financial Services Limited	15.02.2023	Rs.19,37,089/-

As per the arbitral awards, certain sums of money are due and payable by the respective respondents to the applicant. The applicant has chosen to file these applications under Section 9 of the Arbitration and Conciliation Act, 1996 instead of filing execution petitions to execute the arbitral awards. The applicant claims that only recently they have been able to trace the ownership details of the properties, for which injunction is sought for and they have come to know that the said properties are owned by the second respondent in respect of O.A. Nos. 349, 350 and 356 of 2025 and the first respondent in respect of O.A. No. 351 of 2025. The second respondent/first respondent is the guarantor to the loan transaction. Notice has been duly served in these applications on the respondents. The names of the respondents are also printed in the cause-list today. Despite having received the notice, the respondents have chosen not to enter appearance in these applications.



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3. At the outset, this Court questioned the maintainability of these applications since these applications have been filed for an interim injunction pertaining to the aforementioned arbitral awards. The applicant instead of filing execution petitions to execute the said arbitral awards has chosen to file these applications under Section 9 of the Arbitration and Conciliation Act, 1996 seeking for an interim injunction as prayed in these applications even though the same relief could have been sought for by the applicant before the Executing Court.

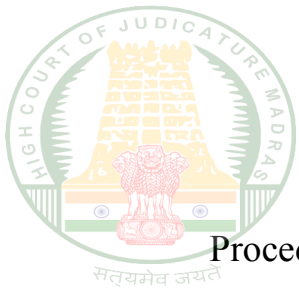
4. The learned counsel for the applicant drew the attention of this Court to a decision rendered by the learned Single Judge of this Court on 28.04.2023 in the case of **K.Punniyamoorthy -vs- Ondraga Entertainment** reported in 2023 (4) CTC 619 and would submit that the learned Single Judge has considered the Hon'ble Division Bench decision dated 15.02.2021 passed by this Court in O.S.A. No. 53 of 2021 in the case of *M/s.Gopuram Enterprises Ltd -vs- M/s.Integrated Finance Company Ltd.*, wherein the Hon'ble Division Bench refused to



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entertain an application filed under Section 9 of the Arbitration and Conciliation Act, 1996, post the passing of an arbitral award. He would submit that the learned Single Judge in the aforesaid decision in ***K.Punniyamoorthy's*** case has held that the Division Bench of this Court in ***M/s.Gopuram Enterprises Ltd*** case referred to supra did not consider the law laid down by the Hon'ble Supreme Court in ***Hindustan Construction Company Ltd -vs- Union of India*** reported in 2020 (17) SCC 324. According to the learned Single Judge, there is no prohibition for this Court to entertain an application under Section 9 of the Arbitration and Conciliation Act, 1996 post the passing of the arbitral award as held by the Hon'ble Supreme Court in ***Hindustan Construction Company Ltd*** case referred to supra.

5. In ***M/s.Gopuram Enterprises Ltd*** case a decision rendered by the Division Bench of this Court on 15.02.2021 in O.S.A. No. 53 of 2021 referred to supra in paragraph 4 of the said decision, it has been made clear that once the arbitral award ripens for implementation, it has per force to be executed only in accordance with the Code of Civil



Procedure by filing an Execution Petition. The Division Bench has held

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in paragraph No.4 as follows:-

“ 4. There are at least four possibilities that immediately come to mind. For one, an arbitral award may not have been challenged within the time permitted or, if challenged, no stay of the operation thereof has been obtained. In such a scenario, the award would be enforceable. Section 36(1) of the Act uses the expression “award shall enforced in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), in the same manner as if it were a decree of the Court.” The word “shall” in Section 36(1) of the Act does not mandate that the arbitral award must be enforced. Such mandatory “shall” only implies that if the award were to be enforced, it may be so done only in accordance with the provisions of the Code. To the extent that a post-award application for interim measures may be regarded as something in aid of the award by way of its enforcement,



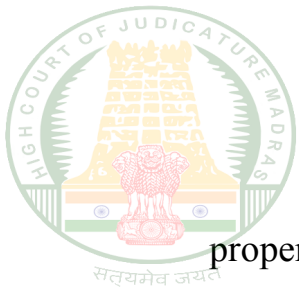
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the doors of a Court under Section 9 of the Act will be open to an award-holder till such time that the award becomes enforceable. Once the award ripens for implementation, it has per force to be executed in accordance with the Code.”

6. In the case on hand, arbitral awards passed in O.A. Nos. 349, 350, 351 and 356 of 2025 in favour of the applicant are dated 15.11.2021, 23.06.2023, 27.07.2022 and 15.02.2023 respectively. More than 4 years has elapsed in respect of O.A. No. 349 of 2025, 1 ½ years in respect of O.A. No. 350 of 2025, 3 years in respect of O.A. No. 351 of 2025, and 2 years in respect of O.A. No. 356 of 2025, since the passing of the respective arbitral awards.

7. At this stage before filing the execution petitions, the applicant has filed these applications under Section 9 of the Arbitration and Conciliation Act, 1996 seeking for an order of interim injunction to restrain the respective respondents from alienating / encumbering the



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properties more fully described in the schedule to the respective judges summons. The Division Bench of the Madras High Court in *M/s.Gopuram Enterprises Ltd* case has made it clear that a post-award application for interim measures may be regarded as something in aid of the award by way of its enforcement, the doors of a Court under Section 9 of the Act will be open to an award-holder till such time that the award becomes enforceable. Once the award ripens for implementation, it has per force to be executed in accordance with the Code.

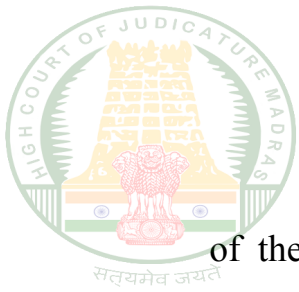
8. In the case on hand, the arbitral award passed in favour of the applicant has attained finality. Admittedly, the respondents have also not challenged the arbitral award by filing an application under Section 34 of the Arbitration and Conciliation Act, 1996. The applicant has waited for more than 1 ½ to 4 long years to file these applications under Section 9 of the Arbitration and Conciliation Act, 1996 seeking for an interim protection. The very same relief that has been sought for in these applications can very well be sought for by the applicant before the Executing Court once the execution petitions are filed by the applicant to



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execute arbitral awards passed in their favour. The relief to be granted by this Court under Section 9 of the Arbitration and Conciliation Act, 1996 is a discretionary relief. The applicant will have to satisfy (a) *prima facie* case (b) balance of convenience and (c) irreparable hardship to enable this Court to grant an order of interim injunction as prayed in these applications.

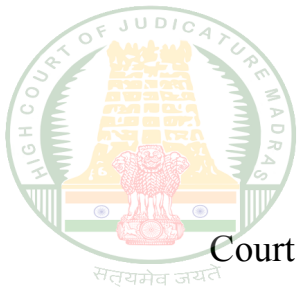
9. Learned counsel for the applicant relied upon the decision rendered by a learned Single of this Court in the case of ***K.Punniyamoorthy -vs- Ondraga Entertainment*** reported in 2023 (4) CTC 619 and in the said decision, the learned Single Judge has considered the judgment rendered by the Division Bench of this Court in ***M/s.Gopuram Enterprises Ltd*** case referred to supra and has held that the Division Bench of this Court in the ***M/s.Gopuram Enterprises Ltd*** case did not consider the law laid down by the Hon'ble Supreme Court in ***Hindustan Construction Company*** case referred to supra. According to the learned Single Judge, the Hon'ble Supreme Court in ***Hindustan Construction Company*** case has held that an application under Section 9



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of the Arbitration and Conciliation Act, 1996 post the passing of the arbitral award is maintainable. While coming to such a conclusion, the learned Single Judge has observed that the Hon'ble Supreme Court in ***Hindustan Construction Company*** case entertained an application under Section 9 of the Arbitration and Conciliation Act, 1996 post the passing of the arbitral award by granting interim protection in order to safeguard the fruit of the proceedings until the enforcement of the award and it was held that the interim protection is a step in aid of enforcement and intended to ensure the enforcement of the award results in a realizable claim and that the award is not rendered illusory by dealings that would put the subject of the award beyond the pale of enforcement.

10. In the case on hand, the award has not become illusory. The very same relief that has sought for in these applications under Section 9 of the Arbitration and Conciliation Act, 1996 can very well be sought for by the applicant in the execution petitions, which are to be filed to execute the arbitral awards passed in the application's favour. The very same relief that has been sought for in these applications before this



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Court can very well be granted by the Executing Court. The applicant has also chosen to approach this Court after a lapse of more than 1 ½ to 4 years since the arbitral awards were passed in their favour. This Court is bound by the Hon'ble Division Bench decision dated 15.02.2021 rendered in *M/s.Gopuram Enterprises Ltd* in O.S.A. No. 53 of 2021, wherein it has been held that the doors of a Court under Section 9 of the Arbitration and Conciliation Act, 1996 will be open to an award-holder only till such time that the award becomes enforceable. In the case on hand, the award is ripe for execution. The Hon'ble Division Bench of this Court in *M/s.Gopuram Enterprises Ltd* case has held that once the award ripens for implementation, it has per force to be executed in accordance with the Code. Since the award which is the subject matter of these applications filed under Section 9 of the Arbitration and Conciliation Act, 1996 are ripe for implementation by filing execution petitions before the Executing Court as per the Code of Civil Procedure, the question of entertaining these applications, that too after a lapse of more than 1 ½ to 4 years from the date of the passing of the respective arbitral awards is not maintainable.



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11. In the result, these applications are not maintainable and they are dismissed. However, liberty is granted to the applicant to file Execution Petitions to execute the arbitral awards dated 15.11.2021, 23.06.2023, 27.07.2022 and 15.02.2023 before the Executing Court. It is made clear that these applications are dismissed only on the ground of maintainability and this Court has not gone into the merits of these matters. No costs.

04.06.2025

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No

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ABDUL QUDDHOSE, J.

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Original Application Nos. 349, 350, 351 and 356 of 2025

Dated : 04.06.2025