IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 30.01.2025	Pronounced on:17.02.2025

CORAM

THE HONOURABLE **MR.JUSTICE P.B.BALAJI**

A.No.6722 of 2024, O.A. No.937 of 2024
O.A. No.71 of 2025 and
Arb. Appln Nos.833 of 2024 & 217 of 2025

Mr.Masilamani Nandagopal

..Applicant

Vs

1. Mr.Nate Nandha

2.Mrs.Madhaneswari Nandagopal

3.Mrs.Sumathi Rameshbabu

...Respondents

PRAYER : This Original Application is filed under Order XIV Rule 8 O.S. Rules read with Section 9(1)(e) of the Arbitration and Conciliation Act, 1996 to vacate the Interim Order dated 10.12.2024 passed in O.A. No.937 of 2024 and dismiss the the said O.A. No.937 of 2024 filed by the 1st Respondent/Applicant herein.

For Applicant	:	Mr.Srinath Sridevan, Senior Counsel for Mr.Keerthikiran Murali in A.No.6722 of 2024 R1 in O.A. No.937 of 2024 Arb. Appln. No.833 of 2024 O.A. No.71 of 2025 & Arb. Appln. No.217 of 2025
For Respondents	:	Mrs.Nalini Chidambaram, Senior Counsel for Mrs.C.Uma for R1 in A. No.6722 of 2024 Petitioner in O.A. No.937 of 2024 Arb. Appln. No.833 of 2024 R3- O.A. No.71 of 2025 & Arb. Appln. No.217 of 2025
		Mr.C.Manishankar, Senior Counsel for Mr.Rahul M.Shankar for R2 – A. No.6722 of 2024, O.A. No.937 of 2024 and Arb. Appln. No.833 of 2024 O.A. No.71 of 2025 & Arb. Appln. No.217 of 2025
		Mr.V.Kuberan for Mr.Harshit S.Jain, for R3 – A. No.6722 of 2024, O.A. No.937 of 2024 and Arb. Appln. No.833 of 2024 O.A. No.71 of 2025 & Arb. Appln. No.217 of 2025

****

ORDER

A.No.6722 of 2024 has been filed to vacate the Interim Order dated 10.12.2024 passed in O.A. No.937 of 2024 and dismiss the the said O.A. No.937 of 2024 filed by the 1st Respondent/Applicant.

2. I have heard Mr.Srinath Sridevan, learned Senior Counsel for Mr.Keerthikiran Murali, learned counsel in A.No. 6722 of 2024 and R1 in O.A. No.937 of 2024 & 71 of 2025, Arb. Appln. No.833 of 2024 & 217 of 2025, Mrs.Nalini Chidambaram, learned Senior Counsel for Mrs.C.Uma, learned counsel for R1 in A. No.6722 of 2024, Petitioner in O.A. No.937 of 2024 & Arb. Appln. No.833 of 2024, R3- O.A. No.71 of 2025 & Arb. Appln. No.217 of 2025, Mr.C.Manishankar, learned Senior Counsel for Mr.Rahul M.Shankar, learned counsel for R2 – A. No.6722 of 2024, O.A. No.937 of 2024 & 71 of 2025 and Arb. Appln. No.833 of 2024 & 217 of 2025 and Mr.V.Kuberan, learned counsel for Mr.Harshit S.Jain, for R3 – A. No.6722 of 2024, O.A. No.937 of 2024 and Arb. Appln. No.833 of 2024

3. Arb Application No.833 of 2024 and O.A. No.937 of 2024 were moved before me initially, I have ordered notice in Arb Application No.833 of 2024 by order dated 10.12.2024 and granted an interim injunction restraining the 1st respondent in O.A. No.937 of 2024 from dealing with the shares held by him in Binny Limited directly or indirectly, contrary to the terms of Settlement Deed dated 18.05.2023. Thereafter, A.No. 6722 of 2024 has been filed for vacating the ex parte interim order granted on 10.12.2024 and after hearing the learned Senior Counsel, Mr.Ramakrishsnan Veeraraghavan, learned Senior Counsel appearing for the applicant in the vacate the interim injunction application and Mrs.Nalini Chidambaram, learned Senior Counsel for the 1st respondent and Mr.Rahul M Shankar, learned counsel for the 2nd respondent in the injunction application, I have modified the order of injunction dated 10.12.2024, restricting it to clause 1(c) of the Settlement Deed dated. 18.05.2023, that is settlement in favour of the 1st respondent, clarifying that it would not bind respondents 2 & 3 insofar as their respective interests is concerned. Thereafter on 30.01.2025, I

have heard all the learned counsel for the parties, including the Senior Counsel appearing on their behalf.

4. The parties are described as per their rank in O.A. No.937 of 2024. In order to understand the fact situation clearly the following background particulars would be necessary:-

5. The reliefs sought for in the Applications are as follows;

(i) O.A. No.937 of 2024 – Injunction Injunction, restraining the 1st respondent from dealing with the shares in Binny Limited held by him, directly or indirectly, in any manner contrary to the terms of the Settlement Deed dated 18.05.2023, pending disposal of the arbitration proceedings;

(ii) O.A. No.833 of 2024 – Interim stay of the Deed of Cancellation dated 13.09.2024, executed and registered by the 1st respondent, cancelling the Settlement Deed dated 18.05.2023 and all consequences arising therefrom, pending disposal of the arbitration proceedings;

(iii) A. No.6722 of 2024 - to vacate the Interim Order dated 10.12.2024 passed in O.A. No.937 of 2024 and dismiss the the said O.A.

No.937 of 2024 filed by the 1st Respondent/Applicant;

(iv) Arb. Appln. No.217 of 2025 – To stay of the Deed of Cancellation dated 13.09.2024 executed and registered by the 1st respondent cancelling the Settlement Deed dated 18.05.2023. This Application is filed by daughter of the 1st respondent; and

(v) O.A. No. 71 of 2025 – Interim Injunction, restraining the 1st respondent from dealing with the shares in Binny Limited, either directly or indirectly, contrary to the terms of Settlement Deed dated 18.05.2023, the same prayer as sought for in O.A. No.937 of 2024.

6.However, this O.A. No.71 of 2025, is filed by Sumathi Ramesh Babu (through her power agent) who is the daughter of the 1st respondent. In O.A. No.937 of 2024, the applicant is the son, the 1st respondent, Masilamani Nandagopal is the father of the Applicant, the 2nd respondent, Madaneshwari Nandagopal is the mother, that is wife of the 1st respondent, the 3rd respondent is the sister of the applicant, that is the daughter of 1st respondent. The 1st respondent is the head of the family and the 1st and 2nd respondents are blessed with two sons and a daughter, the 1st son is the applicant and the 3rd respondent is the daughter. The second son, Arvind Nandagopal is not a party to any of these Applications.

7. The father, in and by a Settlement Deed dated 18.05.2023 settled 44.86% of shares held by him in favour of his wife, the 2nd respondent and daughter 3rd respondent. The father also settled 26.14% shares held by him indirectly in favour of the Applicant vide the said Settlement Deed dated 18.05.2023. According to the Applicant, the Settlement Deed is irrevocable. However, the father, without notice to the applicant and without any provocation, cancelled the said Settlement Deed by executing a Deed of Cancellation dated 13.09.2024. According to the applicant, the applicant and his sister, 3rd respondent who are the settlees under the Settlement Deed dated 18.05.2023 do not live with the father. The father is a man of substantial wealth and the reason given for cancellation of Settlement Deed is that the applicant and his sister are not providing food, shelter and that they are not taking care of the medical expenses of the settlor, is therefore totally false and misconceived. It is also stated by the Applicant that on the same day, the father/1st respondent has executed a Settlement Deed settling

his 44.86% shares held by him in Binny Limited in favour of his second son Arvind Nandagopal, who is admittedly not a party to the Applications.

8. According to the applicant as well as his sister, who has filed Application Nos.217 of 2025 and O.A. No.71 of 2025, the mother is dependent only on her husband viz., the 1st respondent and there was absolutely no circumstances warranting cancellation of the Settlement Deed. Further according to the applicant and his sister, the cancellation of the Settlement Deed is itself bad in the eye of law and hit by the decision of this Court in W.P.No.10657 of 2020. Further it is the contention of the applicant and his sister, that the second son has unduly influenced, compelled and coerced his father into cancelling the Settlement Deed in favour of the applicant and his sister and consequently, executing a fresh Settlement Deed in favour of himself.

9. It is the further contention of the applicant that there is also a SEBI order dated 31.07.2024 freezing the shares of the 1st respondent in Binny Mills Limited, by order dated 05.08.2024, which was consequent to the

order of SEBI dated 31.07.2024. Therefore according to the applicant and his sister, the 1st respondent did not have any authority to transfer the shares of Binny Mills Limited held by him on the particular date. The Applicant has also issued a lawyer's notice on 30.09.2024 invoking the arbitration clause in terms of the Settlement Deed dated 18.05.2023, whereunder the parties have agreed upon reference to dispute to a sole Arbitrator, Retired Judge of the Hon'ble Supreme Court, Mr.Justice. L.Nageswar Rao.

10. It is under such circumstances that the applicant has prayed for stay of the deed of cancellation; injunction restraining the 1st respondent in dealing of the shares in Binny Limited held by him either directly or indirectly and the applicant's sister has moved similar Applications in O.A. No.71 of 2025 and Arb Application No.217 of 2025.

11. Refuting the allegations of the applicant and his sister, the father has filed an Application in A.No.6722 of 2024 for vacating the interim injunction granted by this Court on 10.12.2024 and also seeking dismissal of the Injunction Application.

12. The first respondent/father has stated that, he is a senior citizen aged 86 years and a self made entrepreneur and businessman and that he was the Chairman and Managing Director of Binny Limited holding 1,00,12,110 equity shares directly, constituting about 44.86% of share capital in Binny Limited, being its single largest shareholder and also 29.80% of shares through other entities thereby making his total shareholding both direct and indirect in Binny Limited at 74.66%. According to the 1st respondent, the said shares as well as other assets are completely self acquired as a result of his hard work and sincerity for 5 decades in business. The 1st respondent has further stated that he executed the Settlement Deed on 18.05.2023 and also registered the same before the Sub- Registrar Chennai Central, Joint - I on the hope that the applicant and the 3rd respondent would take more serious interest in the business and that they will also take care of his needs by providing food, shelter and medical expenses during his lifetime.

13. He has also stated that the settlement was made only with an intention to transfer his shares in the manner contemplated in the Settlement

Deed, that too on the promises and assurances made by the applicant and the 3rd respondent. He has further stated that since he was completely deprived of love and affection and care from his eldest son and daughter, viz., the applicant and the 3rd respondent he had to go back on the earlier decision and cancel the Settlement Deed. Further, according to the 1st respondent, his second son was dutiful and has also been taking care of the 1st respondent and his wife, the 2nd respondent. More importantly, the 1st respondent has stated that the Settlement Deed was never acted upon by the parties and the 1st respondent continued to hold the shares in Binny Limited and the same were not transferred to the respondents and reiterated his contention that the Settlement Deed only envisaged distribution of his shares in Binny Limited in a particular manner.

14. The 1st respondent further states that the applicant and 3rd respondent resigned from the Board of Binny submitting their resignation letters dated 11.09.2024 and 09.09.2024 and therefore all hopes of the 1st respondent that his eldest son and daughter would also help the business grow were shattered and that prompted him to cancel the Settlement Deed

and also execute another Settlement Deed in favour of his second son, Arvind Nandagopal who has been taking care of the 1st respondent and his wife. It is also stated by the 1st respondent that it is only the shares of the wife and daughter, namely 44.86% that have been transferred to the second son Arvind Nandagopal and the applicant/son cannot have any grievance with regard to the same.

15. The 1st respondent has also taken a specific contention that despite mentioning in the affidavit in support of the injunction application that in and by a subsequent settlement, the 1st respondent has settled the shares in favour of the second son, Aravind Nandagopal, the said second son is not even impleaded as a party. Further, it is also stated that no portion of the 26.22% shares, the shares held by the 1st respondent in Binny Limited indirectly which was to go to the applicant pursuant to a series of demergers and consequent actions was even dealt with in the Settlement Deed executed by the 1st respondent to his second son, Arvind Nandagopal.

16. Therefore, in short, the contention of the 1st respondent is that the

applicant/son had no locus to seek any interim reliefs as prayed for. The 1st respondent would also state that even though there was an order of SEBI dated 31.07.2024, restraining the 1st respondent and his second son, Arvind Nandagopal from dealing with any securities in the stock exchange and consequent to the order of SEBI, the Central Depository Services (India) Limited had also frozen the shares of Binny Limited by order dated 05.08.2024, the 1st respondent filed Appeal against the said order and the Securities Appellate Tribunal, Mumbai lifted the order of SEBI by order dated 26.11.2024 and therefore, there was no impediment in transferring the shares of Binny Limited in favour of the second son as contemplated under the Settlement Deed dated 13.09.2024.

17. The 2nd respondent, mother has filed a counter affidavit stating that she is aged about 77 years and that she and her husband were put to immense emotional pressure by the applicant and the 3rd respondent and without allowing them to think independently or consult anybody, they were unduly influenced and coerced and resultantly, the second respondent convinced her husband, the 1st respondent to execute the Settlement Deed

dated 18.05.2023. The 2nd respondent mother has also stated that the applicant and the 3rd respondent, her elder son and daughter are frequently visiting her and her husband only for the purpose of wealth appropriation and it is only the second son, Arvind Nandagopal who is staying with the 1st and 2nd respondents and taking care of them, including their medical needs. The second respondent has supported the decision of the 1st respondent in cancelling the Settlement Deed and executing another Settlement Deed in respect of 44.86% shares in Binny Limited to her second son, Arvind Nandagopal.

18. The 3rd respondent has virtually adopted the stand of the eldest brother, applicant by not only filing counter but also independently seeking reliefs vide Arb. Application No.217 of 2025 and O.A. No.71 of 2025.

19. The learned Senior Counsel Mrs.Nalini Chidambaram and Mr.V.Kubaren appearing for the eldest son and daughter respectively have taken me through the covenants of the Settlement Deed dated 18.05.2023 and also contend that is the 1st respondent is a man who is worth of 100's of

crores and for a man of such stature to contend that he was not provided with food, shelter and his medical expenses not being taken care of was only bemusing.

20. Mr. Kuberan, learned counsel for the 3rd respondent would submit that only in order to bring the Cancellation Deed within the scope of the the revocation clause, such a covenant has been set out in the Cancellation Deed and adopting the submissions of the learned Senior Counsel Mrs.Nalini Chidambaram, he would also submit that the 1st respondent being the head of the family and worth several crores was neither dependent on the applicant nor the third respondent and therefore, the Settlement Deed has to be construed only as irrevocable and the Cancellation Deed consequently has to be stayed and the injunction granted by this Court on 10.12.2024 has to be made absolute.

21. Per contra, the learned Senior Counsel appearing for the first respondent, Mr.Srinath Sridevan would invite my attention to the decision of this Court in W.P.No.10653 of 2015 dated 02.09.2022, where this Court

in writ jurisdiction held that cancellation of a Settlement Deed unilaterally was non est and proper remedy was to approach the competent civil Court for relief. Mr. Srinath Sridevan would further submit that insofar as the share holding of the 1st respondent in Binny Limited, 44.86% of shares were held directly by him by way of equity shares and 29.80% of shares was held through other entities, viz., Mohan Breweries and Distilleries Limited, Arthos Breweries and Miralotus Private Limited who are admittedly not parties to the proceedings.

22. He would further submit that even to the knowledge of the applicant and 3rd respondent, the other son has become the present beneficiary/owner of 44.86% shares and he is also not a party to these Applications and therefore, he would submit that, no order of restraint can be passed in respect of shares held by the second son who is not a party to the proceedings. He would also submit that the Settlement Deed was never acted upon and it was only an expression of intention and therefore, the said Settlement Deed only amounted to an agreement to enter into further agreement and therefore the same is not specifically enforceable in a Court

of law and consequently, applying the provisions of Section 40 of the Specific Relief Act, the learned Senior Counsel would submit that no interim injunction can be granted as prayed for.

23. Further, he would reiterate the averments of the counter affidavit of the 1st respondent that the Settlement Deed was also not acted upon and it was only an expression of desire of the first respondent as to the manner in which his shares should be taken and the share transfers were also not admittedly effected and continue to be in the name of the first respondent on the date of the cancellation of Settlement Deed and therefore, the injunction petition is liable to be dismissed. He would place reliance on the following decisions;

(i) *Hiralal Chimanlal Vs. Gavrishnkar Ambashankar,* reported in *(1927) SCC Online Bom 136*;

(ii) *Serandaya Pillai and another Vs. Sankaralingam Pillai and another,* reported in *(1959) 2 MLJ 502*;

(iii). *Praveen Travels (P) Limited, rep by its Director Mr.A.Afzal, Vs. Visteon Automotive Systems India Private Limited, rep. by its Director and* *another,* reported in *2022 (1) CTC 542;* and

(iv). *Prem Prakash Gupta Vs. Sanjay Aggarwal,* reported in *(2018) SCC Online 6730.*

24. The learned counsel for the 2nd respondent Mr. Rahul M. Shankar, the mother of the applicant and 3rd respondent, and the wife of the 1st respondent would submit that the parents expected the settlees viz., the applicant and the 3rd respondent, being the eldest son and only daughter to not merely spend monies for their upkeep and maintenance but actually shower love and affection as children are expected to do so to their parents. Unfortunately, according to the learned counsel for the 2nd respondent, both the applicant and the 3rd respondent had least love and affection for their parents and they have only eyed the valuable assets available and as dutiful and loving wife of the 1st respondent, the mother was pained to notice the attitude of her two children, viz., the applicant and the 3rd respondent. She would justify the decision of her husband to cancel the Settlement Deed and execute another Settlement Deed in favour of the 2nd son.

25. I have carefully considered the rival submissions advanced by the learned Senior counsel and other learned Counsel for the parties. I have also gone through the records and the decisions on which reliance is placed on.

26. The Settlement Deed executed by the 1st respondent is dated 18.05.2023. Admittedly, it is a registered Settlement Deed and the Settlement Deed is in respect of only movable assets in forms of shares held by the 1st respondent in the company named Binny Limited. The 1st respondent being a direct shareholder, held 44.86% and 7.24% indirectly being the beneficial owner, though shares were in the name of Arthos Breweries Limited and another 18.98 % as beneficial owner, such shares being held by Mohan Breweries and Distilleries Limited (MBDL) and 3.5% as beneficial owner, though shares were held by his son, Arvind Nandagopal. The following clauses in Settlement Deed assume significance and hence the same are extracted for reference and ease of understanding:

> *"WHEREAS the SETTLOR hereby declares and assures that this Deed of Settlement is Irrevocable with a condition that the SETTLEES are bound to take care of the SETTLOR by providing food, shelter and to take care of medical expenses of the SETTLOR. If they failed to do so, then the SETTLOR has the right to revoke this Settlement Deed.*

......

(a) Mrs. MADHANESWARI NANDAGOPAL (the party of the first part), shall receive 20.61% out of 44.86% of the shares in Binny Ltd. held directly by the Settlor only after the demise of the Settlor, and further 3.58% of the shares in Binny Ltd held by my second son ARVIND NANDAGOPAL (party of the fourth part) shall be transferred to myself and after my demise the same shall be transferred to my wife Mrs. Madhaneswari Nandagopal (party of the first part) However I have aleady gifted her 6.147 grounds in Royapettah, Survey No 414 which is being enjoyed exclusively by her.

b) Mrs SUMATHI RAMESHBABU (the party of the second part), Shall receive the remaining 24.25% of the shares held directly by the Settlor in Binny Ltd,

c) 1.Mr. NATE NANDHA (the party of the third part), shall receive the shares of 26.22% shares in Binny Ltd. To enable the Settlor to settle the same a Scheme of Demerger shall be executed by Arthos Breweries pertaining to Binny shares of 7.24% which will subsequently be transferred to Miralotus Pvt Ltd and further a Scheme of Demerger shall be executed by MBDL to transfer 18.98% of Binny shares held by MBDL to Miralotus Pvt Ltd., By both the Demergers Schemes Miralotus Pvt Ltd , will be holding the shares of binny totaling 26.22% shares which will eventually be transferred to Mr.Nate Nandha (party of the Third part). To enable the settlor to transfer the same the Settlor shall revoke of the shares from Mr. Arvind Nandagopat immediately.

2.Further on conferment of the binny shares totalling 26.22% to Miralotus Pvt Ltd which is owned by the Settlor 100% exclusively, out of which my first grandson Rahul Nandagopal Natarajan and my second grandson Mr Gautam Nandagopal Natarajan will each get 20% of Miralotus Pvt Ltd each, totalling 40%, balance 60% of Miralotus Pvt Ltd will go to Mr Nate Nandha who will on the finalisation of an on going divorce proceedings will give 20% each to his two sons mentioned above and 20% to Mrs Shoba Natarajan (Maiden name : Ramalingam)

...... 2) The shares of BINNY Ltd held by Mr ARVIND NANDAGOPAL, will be revoked so as to transfer the shares to the exclusive enjoyment of the Settlees. It is pertinent to note that during pandemic a transfer relating to MBDL was made to Mr.ARVIND NANDAGOPAL my second son on Sept 14th 2021 the same is now being revoked by which the Settlor will get 82.02% of MBDL shares. Since the said transfer by the Settlor was made

under undue influence, compulsion and coercion letter dated 18.05.2023 has been addressed to the Registrar of the Companies by the Settlor not to register the said transfers
......"

27. Despite the settlor declaring that the Settlement Deed is irrevocable, a rider is added that the settleees namely, the applicant and 3rd respondent are bound to take care of the settler by providing food, shelter and also take care of the medical expenses of the settlor and that on failure to do so, the settlor has the right to revoke the Settlement Deed. Examining the actual gifts, it is seen that, as rightly contended by the 1st respondent, it is only the 44.86% directly held shares in Binny Limited that has been settled on the wife and daughter. The words employed in the Settlement Deed also indicate that the settlement viz., transfer of shares did not happen under the Settlement Deed but was contemplated to take place at a later date. The words "shall receive, shall be transferred" indicate that the transfer of title of shares was not under the Settlement Deed itself. In any event for a gift to take effect and become complete, the same has to be not only accepted by the settler but also acted upon.

28. Admittedly, the shares have not been transferred in the name of the applicant and the 3rd respondent even after the execution of the Settlement Deed dated 10.05.2023 and the gift itself has not become complete in the eye of law. This is in respect of the 44.86% of shares held by the 1st respondent in Binny Limited Insofar as the 26.22% shares which have been earmarked for the applicant, further acts of scheme of demerger and transfer have been contemplated even in the Settlement Deed and therefore at best, insofar as the gift in favour of the applicant, it was clearly "an agreement to gift and not an agreement of gift". As held by the Hon'ble Division Bench of Bombay High Court in *Hiralal Simanal's* case (referred herein supra), an agreement to make a gift is not capable of specific performance and even the doctrine of part performance has no application. In *Serandaya Pillai's case (referred herein supra)*, on the same lines of the Division Bench of Bombay High Court, this court also held that an agreement to make a gift is not capable of specific performance.

29. Admittedly, the Settlement Deed is not even signed by the Applicant and the 3rd respondent in acknowledgment of having accepted the

gift. When the gift is in the nature of movable assets in the form of shares, the gift to be complete the share certificates ought to have been handed over to the donees and the donees, in turn ought to have mutated their names in the shareholdings, consequent to such gift in their favour. In the present case the applicant and the 3rd respondent admit that no such transfer of shares in their name has been given effect. Therefore, even from this angle the gift is incomplete in the eye of law and when the gift is not complete and is not acted upon, the Doner can always revoke the gift.

30. Further, in *Praveen Travels (P) Limited's* case (referred herein supra), this Court, in Arbitration Proceedings held that, having regard to provisions of Section 14(1)(a) & (c) and r/w Section 41(e) of the Specific Relief Act, 1963, an interim order cannot be granted under Section 9 of the Arbitration and Conciliation Act, 1996. Section 41(e) of the Specific Relief Act states that an injunction cannot be granted to prevent breach of contract, the performance of which is not specifically enforceable. Here, having already found from the reading of Settlement Deed that the gift was only contemplated in future, at best being an agreement to enter into a contract of

gift and in such circumstances, there is a bar for specifically enforcing such Settlement Deed under the law. Once the Settlement Deed is unenforceable in the eye of law, then no injunction can be granted in terms of section 41(e) of the Specific Relief Act. Therefore, even from this angle, the injunction order cannot be passed as prayed for by the applicant and the third respondent.

31. Further, the counsel for the first respondent has also in *Premprakash Gupta's* case (referred herein supra), the Delhi High Court noticing the ratio in *Hiralal Simanlal's case* held that an agreement to gift cannot be specifically enforced by seeking specific performance. The learned counsel for the first respondent has also placed documents to evidence that subsequent to the order of the SEBI being vacated by SAT, Mumbai, the transfer has been duly effected in favour of the second respondent on 10.01.2025. This again is on respect of the 44.86% share holding of the first respondent directly held by him in Binny Limited. Therefore, once the transfer has already been effected in favour of the second son, by the first respondent, the injunction application restraining

the first respondent from dealing with shares held by him directly in Binny Limited has in fact become infructuous.

32. An argument was advanced by the learned counsel for the third respondent that on the date of the Settlement Deed in favour of the second respondent, there was a prohibitory order of the SEBI and therefore, the Settlement Deed in favour of the second son was also only invalid and non est in the eye of law. Though the said argument appears to be attractive, on going through the Settlement Deed executed by the first respondent to the second son on 13.09.2024 which is also produced by the learned counsel for the applicant as well as the third respondent in the typed set of papers. I find that the Settlement Deed was executed on 13.09.2024 and the order of the Securities Appellate Tribunal (SAT) came to be passed only on 26.11.2024. The transfer was given effect to only after the order of the SAT came to be passed, vacating the embargo on transfer of shares passed by SEBI on 31.07.2024. This is evidenced by the letters dated 02.01.2025 and 10.01.2025 from Binny Limited to the Bombay Stock Exchange, letter from the second son to Bombay Stock Exchange and the letters dated 10.01.2025

from the second son to SEBI and the letter of SEBI to the first respondent and the second son, permitting transfer of shares by the first respondent to the second son and modifying the order of SEBI to that extent. Therefore, the actual transfer being given effect to only on 10.01.2025 and on that day there was no legal embargo for the transfer to have taken place, the mere fact that the Settlement Deed was executed on 13.09.2024 cannot be put against the settlement executed by the first respondent in favour of his second son.

33.As rightly pointed out by the learned counsel for the second respondent, Mr. Rahul M.Shankar though the phrases 'providing food, shelter and taking care of medicinal requirements', etc were incorporated in the Settlement Deed, the Settlement Deed being out of love and affection for the children, it is natural for the parents to expect basic reciprocation from the children by way of love and affection and when the parents find such love and affection being totally absent, despite the Settlement Deed having been executed, it cannot be termed as improper or illegal or even unjust for the parents to revoke the Settlement Deed falling back on the revocation clause available in the settlement.

34. Anyhow, the validity of the cancellation of the Settlement Deed is a matter which has to be decided by the learned Arbitrator and at this juncture I am only dealing with the Section 9 Applications intended to be interim measures of protection, pending disposal of the Arbitration proceedings. Having found that the 44.86% of shares held by the first respondent has already been transferred to the second son who is not a party to the said proceedings, the Injunction Applications seeking to restrain the first respondent in this regard has become infructuous and does not survive.

35. Even insofar as 26.22% of shares indirectly held by the first respondent, a series of legal actions are required by a way of demerges, etc. for the settlement in respect of 26.22% to become effective. Clearly it is an agreement to gift and not an agreement of gift which makes a world of difference and when it is an agreement to gift, the same is not specifically enforceable. The ratio laid down by this Court as well as the Hon'ble Division Bench of Bombay High Court in this regard, clearly dis-entitle the

petitioner from seeking any interim relief. Therefore, even in respect of 26.22%, an interim injunction cannot be sustained, since there is no concluded contract and the agreement to gift contemplates further contracts to be executed not only between the parties but also amongst third parties, who are admittedly not parties to the present proceedings. Therefore even in respect of indirectly held shares, the applicant and the third respondent are not entitled to interim injunction. Further as found from the language employed in the Settlement Deed also there is no vesting of the gift under the Settlement Deed and it was only contemplated at a future date. Under such circumstances, the gift also having not taken effect and become complete in the eye of law, as envisaged and contemplated under the provisions of the Transfer of Property Act 1882, the question of granting an interim injunction at this stage does not and cannot arise.

36. In view of the above, A.No.6722 of 2024 is allowed. Insofar as Arb Application Nos.833 of 2024 & 217 of 2025, seeking stay, the granting of this interim relief would virtually amount to grant of permanent relief in favour of the applicant and 3rd respondent. The issue regarding the validity

of Cancellation Deed and for that matter even the Settlement Deed which was cancelled are all to be decided after letting in evidence before the learned Arbitrator and at this stage, I do not find any compelling necessity to grant stay of the Cancellation Deed which has in fact already taken effect with the subsequent deed executed by the 1st respondent in favour of his second son Arvind Nandagopal, which has also been given effect to as well, on 10.01.2025.

37. For the all above reasons, A. No.6722 allowed and consequently, O.A. Nos.937 of 2024, 71 of 2025, Arb. Appln. Nos.833 of 2024 & 217 of 2025 are dismissed.

17.02.2025

rkp
Index : Yes / No
Internet : Yes / No

P.B.BALAJI, J.,

rkp

Pre-delivery Order in
A.No.6722 of 2024, O.A. No.937 of 2024
O.A. No.71 of 2025 and
Arb. Appln Nos.833 of 2024 & 217 of 2025

17.02.2025