



WEB COPY

OSA(CAD) Nos.118, 119,
135 & 136 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-12-2025

CORAM

**THE HONOURABLE Mr. JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN**

**OSA(CAD) Nos.118, 119, 135 & 136 of 2025
AND**

**CMP NO. 27672, 27666, 27675, 27678, 29773, 29775, 29780
& 29782 OF 2025**

1. Eros International Media Limited
Rep. by its Authorised Representative
Mr.Akshay Narayanrao Atkulwar,
Having its registered office at
201, Kailash Plaza, Opp. Laxmi
Industrial Estate, Off Andheri Link
Road, Andheri (West), Andheri,
Mumbai, Maharashtra - 400053
also at
No.147/11, Third Floor,
Rajparis Trimeni Towers,
G.N. Chetty Road, T.Nagar,
Chennai - 017 (which now at Gee
Gee Universal, 5th Floor, D.No.2,
Old No.16, 18/1 and 2 (old NO.8),
MG Nicholas Road, Chetpet,
Chennai - 600031.

Appellant(s) in all OSAs

Vs

1. 14 Reels Entertainment Private
Limited
Plot No.76, H.No.8-2-293/82/W/76,
Road No.7A, Women's Co-operative



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

Housing Society
Jubilee Hills, Hyderabad.

2.14 Reels Plus LLP
Plot No.236, My 4 Apartments,
Prashanth Hills Colony, Raidurgam,
Gachibowli, Rangareddy, Hyderabad,
Telangana - 500104.

Respondent(s) in all
OSA

PRAYER in OSA(CAD).No.118/2025

Original Side Appeal filed under Section 37 of The Arbitration and Conciliation Act, 1996 read with the proviso to Section 13(1A) of The Commercial Courts Act, 2015 read with Rule 9 of The Madras High Court (Arbitration) Rules, 2020, praying to set aside the impugned order dated 30.10.2025 passed by the Learned Judge in Arb.Appln. NO.1388 of 2025.

PRAYER in OSA(CAD).No.119/2025

Original Side Appeal filed under Section 37 of The Arbitration and Conciliation Act, 1996 read with the proviso to Section 13(1A) of The Commercial Courts Act, 2015 read with Rule 9 of The Madras High Court (Arbitration) Rules, 2020, praying to set aside the impugned order dated 30.10.2025 passed by the Learned Judge in OA.NO.997 of 2025.

PRAYER in OSA(CAD).No.135/2025

Original Side Appeal filed under Section 37 of The Arbitration and Conciliation Act, 1996 read with the proviso to Section 13(1A) of The Commercial Courts Act, 2015 read with Rule 9 of The Madras High Court (Arbitration) Rules, 2020, praying to set aside the impugned order dated 30.10.2025 passed by the Learned Judge in Arb.Appln. NO.1374 of 2025.



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

PRAYER in OSA(CAD).No.136/2025

WEB COPY

Original Side Appeal filed under Section 37 of The Arbitration and Conciliation Act, 1996 read with the proviso to Section 13(1A) of The Commercial Courts Act, 2015 read with Rule 9 of The Madras High Court (Arbitration) Rules, 2020, praying to set aside the impugned order dated 30.10.2025 passed by the Learned Judge in OA.NO.998 of 2025.

OSA(CAD) No. 118 of 2025

For Appellant(s): Mr.Ar.L.Sundaresan,
Senior Counsel
For Mr.Anirudh A Sriram

OSA(CAD) No. 119 of 2025

For Appellant(s): Mr.P.S.Raman
Senior Counsel
For Mr.Vaibhav Rangarajan
Venkatesh

OSA(CAD) Nos.135 & 136 of 2025

For Appellant(s): Mr.Nithyaesh Natraj
For Mr.Akash Srinanda

For Respondent(s): Mr.M.S.Krishnan,
in all OSAs Senior Counsel
For Mr. Keerthi Kiran Murali For
R1
Mr.Vijay Narayan,
Senior Counsel
For Mr. P. Griridharan For R2

COMMON JUDGMENT

(Order of the Court was made by ***S.M.Subramaniam J.***)

Under assail is the judgment delivered on 30.10.2025 by the learned Single Judge of this Court in Original Application Nos.997 and 998 of 2025 and Arbitration Application No.1374 of 2025. Applicant in all the applications



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

is the appellant in the present Original Side Appeals. All the applications have been instituted under Section 9(1)(d) of “the Arbitration and Conciliation Act, 1996” [hereinafter referred as “Act, 1996”] praying for an interim relief.

2. The learned Single Judge dismissed the applications mainly on the ground that Section 9 application is not maintainable, since the appellant has already moved an Execution Petition before the competent Civil Court under the Code of Civil Procedure. During the pendency of the Execution Proceedings before the Competent Court, application under Section 9 is not maintainable. Therefore, liberty is granted to the appellant to approach the Execution Court for securing appropriate interim relief or seeking enforcement of the arbitral award.

3. Since maintainability issue has been raised before the learned Single Judge, it necessitated this Court to first decide the maintainability of an application under Section 9 of the Act on institution of EP proceedings or during pendency of an Execution proceedings. This Court requested the respective learned Senior Counsels appearing on behalf of the parties to the *lis*, to confine their arguments on maintainability instead of advancing



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

comprehensive arguments on merits. The respective learned Senior
Counsels agreed and proceeded.

4. The learned Senior Counsel Mr.P.S.Raman, assisted by Mr.Vaibhav Rangarajan Venkatesh, learned counsel appearing on behalf of the appellant would mainly contend that the scope of Section 9 cannot be restricted by judicial interpretation and the plain reading of the provision would indicate that even after passing off the arbitral award and before enforcement of such award under Section 36 of the Act, application seeking interim measure under Section 9 is maintainable. To substantiate the claim, he would rely on the judgment of the Bombay High Court in the case of ***Dirk India Private Limited Vs. Maharashtra State Electricity Generation Company Limited***¹. In paragraph 14 of the judgment, the Division Bench of Bomby High Court held that “*When an interim measure of protection is sought before or during arbitral proceedings, such a measure is a step in aid to the fruition of the arbitral proceedings. When sought after an arbitral award is made but before it is enforced, the measure of protection is intended to safeguard the fruit of the proceedings until the eventual enforcement of the award. Here again the measure of protection is a step in aid of enforcement. It is intended to ensure that enforcement of the award*

¹ (2013) 7 Bom CR 493



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

results in a realisable claim and that the award is not rendered illusory by dealings that would put the subject of the award beyond the pale of enforcement. Now it is in this background that it is necessary for the Court to impart a purposive interpretation to the meaning of the expression “at any time after the making of the arbitral award but before it is enforced in accordance with section 36”. Under Section 36, an arbitral award can be enforced under the Code of Civil Procedure in the same manner as if it were a decree of the Court. The arbitral award can be enforced where the time for making an application to set aside the arbitral award under Section 34 has expired or in the event of such an application having been made, it has been refused. The enforcement of an award enures to the benefit of the party who has secured an award in the arbitral proceedings. That is why the enforceability of an award under Section 36 is juxtaposed in the context of two time frames, the first being where an application for setting aside an arbitral award has expired and the second where an application for setting aside an arbitral award was made but was refused. The enforceability of an award, in other words, is defined with reference to the failure of the other side to file an application for setting aside the award within the stipulated time limit or having filed such an application has failed to establish a case for setting aside the arbitral award. Once a challenge to the arbitral award has either failed under Section 34 having been made within the stipulated



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

WEB COPY

period or when no application for setting aside the arbitral award has been made within time, the arbitral award becomes enforceable at the behest of the party for whose benefit the award enures. Contextually, therefore, the scheme of Section 9 postulates an application for the grant of an interim measure of protection after the making of an arbitral award and before it is enforced for the benefit of the party which seeks enforcement of the award. An interim measure of protection within the meaning of Section 9(ii) is intended to protect through the measure, the fruits of a successful conclusion of the arbitral proceedings. A party whose claim has been rejected in the course of the arbitral proceedings cannot obviously have an arbitral award enforced in accordance with Section 36. The object and purpose of an interim measure after the passing of the arbitral award but before it is enforced is to secure the property, goods or amount for the benefit of the party which seeks enforcement.”

5. Though a Special Leave Petition has been filed against the said judgment of Bombay High Court, it was disposed of as infructuous by the Apex Court in SLP.No.13688 of 2013 dated 29.11.2016.

6. A similar view has been taken by the Hon'ble Supreme Court of India in the case of **Hindustan Construction Company Limited and**



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

another Vs. Union of India and others², wherein the Apex Court referred the principles laid down by the Division Bench of Bombay High Court in **Dirk India's** case [cited supra].

7. The learned Senior Counsel Mr.P.S.Raman would further refer an order of the learned Single Judge of the Madras High Court passed in OA.No.284 of 2023 and the learned Single Judge has taken the similar view as that of the view taken by the Division Bench of Bombay High Court in **Dirk India's** case [cited supra], which was referred by the Apex Court in the case of **Hindustan Construction Company Limited** [cited supra]. The learned Single Judge has proceeded on the basis that the scope of Section 9 is to be interpreted in its plain language and there is no further scope to interpret in a different manner. The learned Single Judge observed as follows:-

“9. A perusal of the above provisions, it shows that Section 9 lays down three stages at which a party can approach the Court for seeking an interim relief namely, “before or during arbitral proceedings, or at any time before it is enforced in accordance with Section 36.” It has to be looked into the words of Section 9 of the Act, i.e, “at any time before it is enforced.” The object of the word “enforced” used in the third stage in section 9 of the Act appears to mean that “until the complete satisfaction of the award.

10.

11.

12.

² (2020) 17 SCC 324



WEB COPY



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

13.

14.

15.

16. *Therefore, the very purpose of providing interim relief after the passing of the award but before the enforcement of the arbitral award is to secure its value for the benefit of the party who seeks the enforcement of the award. Thus, after the award is made, the remedy under Section 9 is only a step in aid of enforcement of the arbitral award until the complete satisfaction of the award or eventual enforcement of the award. In other words, until the complete satisfaction of the award, the protection under Section 9 is very much available to the award holder, otherwise the award become illusory.*

17.

18.

19.

20.

21.

22. *Therefore, the words "before it is enforced" mentioned in section 9 of the Act would mean that "until the complete satisfaction of the award." Thus, the remedial measures are available under section 9 to the parties is 'until the complete satisfaction of the award is attained'. Mere filing of the E.P. for execution of the award and the pendency of the E.P. Proceedings does not mean that the 'award is enforced'. Therefore, till the complete satisfaction of the award is attained, the award holder can approach the Court for interim relief under Section 9 of the Act.*

23. *In the light of the above discussion, this Court has no hesitation to hold that the award holder can very well maintain application under Section 9 of the Act and he is entitled to seek interim relief before this Court. Having arrived at this conclusion, this Court is not inclined to traverse the other decisions relied upon by the learned Senior counsel for the respondent as the same would not be applicable in the present facts of the case."*

8. The said judgment of the learned Single judge was taken by way of Original Side Appeal in OSA (CAD).No.94 of 2023 and the Division Bench of this Court confirmed the said judgment in its judgment dated 21.08.2023.



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

WEB COPY

9. Relying on the above judgments, the learned Senior Counsel Mr.P.S.Raman, would reiterate that the other view taken by the learned Single Judge in the impugned order cannot be sustained. The learned Single Judge, who passed the impugned order subsequently referred the issue before the Larger Bench of this Court and the Larger Bench is yet to be constituted. Therefore, there is no impediment for this Bench to decide the issue on merits. However, this Court asked a question when a coordinate Bench of this Court in the case of **Gopuram Enterprises Ltd., Vs. M/s.Integrated Finance Company Limited**³ has taken a different view akin to that of the view taken by the learned Single Judge in the impugned order, in reply, Mr.P.S.Raman would contend that the Supreme Court has already decided the legal principles. Therefore, this Court is bound by the judgment of the Supreme Court on interpretation of Section 9 of the Act. Therefore, this Court has chosen to examine the issue regarding maintainability of Section 9 petition after passing the arbitral award and during pendency of the Execution proceedings.

10. The learned Senior Counsel, Mr.Vijay Narayanan, assisted by Mr.P.Giridharan appearing on behalf of the second respondent in the present appeals would oppose by stating that Section 9 is to be interpreted

³ 2021 SCC OnLine Mad 16559



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

taking into consideration the objectives under the Act. In the present case, Execution Petition has been instituted and pending. Provision intends that on institution of Execution proceedings, no application for interim measure under Section 9 of the Act is maintainable. The words “before it is enforced” under Section 9 is to be read as “enforceable”. In the present case, the appellant has admittedly got an enforceable award and institution of Execution proceedings would be a bar for invoking Section 9 of the Act. Thus, the learned Judge is right in his view, which is in consonance with the spirit of Section 9 of the Act. To support the above proposition, the learned Senior Counsel, Mr.Vijay Narayanan, would rely on the judgment in the case of **Gopuram Enterprises Ltd.**, (cited supra), wherein the Division Bench in Paragraphs 3, 5 and 7 held as follows:-

“3. 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 Civil Procedure Code, 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, 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



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

enforceable. Once the award ripens for implementation, it has per force to be executed in accordance with the Code.

4.

5. In short, notwithstanding the Act of 1996 being a complete code and governing everything pertaining to arbitration, once an arbitral award, in full or part, becomes enforceable, the enforcement of such award or part of the award has to be in accordance with the Code. In a manner of speaking, the matter as to the enforcement of an award slips out of the purview of the Act of 1996 and falls within the domain of the Code for it to be exclusively governed by the Code thereupon.

6. ...

7. However wide the powers conferred on a Court under Section 9 of the Act may be seen to be, such powers may not extend to issuing orders for discovering the assets of an award-debtor. Order XXI of the Code, that provides for execution, carries the necessary provisions for such purpose and Section 9 of the Act cannot be enlarged to incorporate the wide authority that an executing Court has to aid the award-holder, who metamorphoses as a decree-holder by the legal fiction contained in Section 36(1) of the Act, to seek or obtain orders of such nature or of arrest or detention of the award-debtor or the sequestration of its assets and properties.”

11. He relied on two judgments of the learned Single Judges of this Court in the cases of ***M.Kalanidhi Vs S.Kuppuraj*** in **O.A.No.99 of 2021** dated 27.08.2021 and in **O.A.No.630 of 2020** dated 17.04.2021, wherein the respective learned Single Judges have followed the view taken by the Division Bench of this Court in the case of ***Gopuram Enterprises Ltd.,*** (cited supra).

12. The learned Senior Counsel Mr.Krishnan appearing on behalf of the first respondent would also sail with the second respondent by stating



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

that the interpretation of Section 9 is to be understood in the context of Section 36 of the Act. Therefore, institution of an Execution proceedings would be a bar for invoking Section 9 seeking interim measure. Thus, the learned Single Judge has rightly rejected the application filed by the appellant under Section 9 of the Act. Mr.Krishnan, learned Senior Counsel would contend that the Division Bench judgment of this Court in the case of **Gopuram Enterprises Ltd.**, (cited supra) is covering the field. Therefore, this Bench, being a Co-ordinate Bench is bound by the said judgment. That apart, the learned Single Judge has referred the matter to a Larger Bench and the Larger Bench is yet to be constituted. This matter may also be tagged along with case referred to the Larger Bench. Thus, any different view would result in judicial indiscipline, as held by the Constitution Bench of the Hon'ble Supreme Court of India in the case of **National Insurance Co., Ltd., Vs Pranay Sethi & others**⁴.

13. Mr.A.R.L.Sundaresan, learned Senior Counsel in support of the appellant would contend that in the case of **Shangai Electric Group Co. Ltd., Vs Reliance Infrastructure Ltd.**,⁵ the Delhi High Court has taken a view, which reads as under:-

⁴ (2017) 16 SCC 680

⁵ 2024 SCC OnLine Del 1606



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

WEB COPY

“82. Secondly, even if one were to assume that the outer limit prescribed by Section 9 of the Arbitration Act were to apply even to proceedings seeking enforcement of foreign awards, the outer limit cannot be read as “before filing an application seeking enforcement”. The expression used is “before it is enforced”. This would clearly imply till the award is fully satisfied. The word “enforced” is past tense of the word “enforce” which would imply that the enforcement has already happened and is complete.

83. If one were to give a restricted meaning as proposed by the Respondents, it would frustrate the very purpose of the foreign award. For the reason that the holder of the foreign award has to first approach the court for a recording of satisfaction that the award is enforceable and then the award would be enforced and if during this period there was no power of the court to grant interim measures, the party against whom the award is sought to be invoked, could deal with the assets to defeat the award.

84. Thus it is held that the outer limit for seeking interim measures under Section 9 of the Arbitration Act would not become applicable on mere filing of the Application seeking enforcement. There is thus no merit in the said argument raised on behalf of the Respondent, the same is accordingly rejected.”

14. The said judgment of the Delhi High Court has been affirmed by the Apex Court in SLP No.14788 of 2024 dated 09.07.2024. Therefore, there is no impediment for this Division Bench to decide the issues based on the judgment of the Delhi High Court, as confirmed by the Supreme Court as well as the judgment in the case of “**Dirk India** (cited supra), which is referred by the Apex Court in the case of **Hindustan Construction Company Limited** (cited supra).



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

WEB COPY

15. Before attempting to interpret the scope Section 9, it would be beneficial for this Court to remind the elementary principles of interpretation. Elementary principles governing the interpretation of statutes lies in the language employed by the legislature. When statutory language is plain, clear, and unambiguous, the intention of the legislature is to be gathered from the words used themselves. Resort to external aids or interpretative devices becomes necessary only when the language is uncertain or capable of more than one meaning. Hence, interpretation combines both literal and purposive approaches; however, the need for interpretation arises only when ambiguity, vagueness or multiple possible meanings exist.

16. The Hon'ble Supreme Court of India has consistently reiterated that when the statutory language is plain and unambiguous, Courts must give effect to it without adding or subtracting words. The intention of legislature is best understood through the words it has chosen and no interpretation is required when those words are clear.

17. The Constitution Bench of the Hon'ble Supreme Court of India in the case of ***R.S.Nayak Vs A.R.Antulay***⁶ held as follows:-

“..... If the words of the Statute are clear and unambiguous, it is the plainest duty of the Court to give effect to the natural meaning of the words used in the provision. The question of construction arises only in the event of an ambiguity or

6 AIR 1984 SC 684



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

the plain meaning of the words used in the Statute would be self-defeating.”

18. Recently, the Apex Court reiterated the primacy of the literal Rule of interpretation in the case of ***Independent Sugar Corporation Limited Vs. Girish Sriram Juneja and others***⁷. The relevant portions are extracted as follows:-

“42. Where the language is clear, plain and unambiguous, the courts are duty-bound to give effect to the meaning that can be inferred from a statute, irrespective of the consequences. Mere inconvenience being caused to a party, by virtue of the plain and literal interpretation accorded to a statute, cannot be reason enough to forego such interpretation.

43. Emphasising on construing the meaning from the plain language of Section 123(7) of the Representation of the People Act, 1951, as it then stood, Justice S. R. Das pertinently observed: ‘The spirit of the law may well be an elusive and unsafe guide and the supposed spirit can certainly not be given effect to in opposition to the plain language of the sections of the Act.’

44. In other words, the so-called ‘spirit of the law’ is an indeterminate construct, whose nature renders it subjective and susceptible to varied interpretations depending on the personal predilections of those tasked with interpreting it. Therefore, it is almost unattainable as a definitive guide, especially in the face of or when put in opposition to the unambiguous, clear and plain language used in a particular provision, as is presently the case.

45. Therefore, it is almost necessary for the courts to interpret the provision in its natural sense, as it is through the words used in a provision that legislature expresses its intention. When the language is unambiguous, as in the present matter, the courts must respect its ordinary and natural meaning instead of wandering into the realm of speculation and unintended overreach invoking the so-called ‘spirit of the law’.

7(2025) INSC 124



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

WEB COPY

....
51. The above pronouncements make it clear that when the words used are clear, plain and unambiguous, the courts are duty-bound to give effect to the meaning emerging out of such plain words. The intention of the legislature must be gathered from the language used and also, the words not used. It becomes imperative to understand those words in their natural and ordinary sense, and any interpretation requiring for its support addition or substitution or rejection of words as meaningless, must ordinarily be avoided.”

19. In the case of **Saregama India Limited Vs. Next Radio Limited and others**⁸, the Supreme Court of India relying on the judgment of the Constitution Bench in expeditious trial of cases under Section 138 of the Negotiable Instruments Act, 1881, reported in **(2021) 16 SCC 116**, held as under:-

“20. At this stage, the issue is whether the interim order of the High Court can be sustained. Essentially, as the narration in the earlier part of this judgment would indicate, the High Court has substituted the provisions of Rule 29(4) with a regime of its own, which is made applicable to the broadcasters and the petitioners before it. A Constitution Bench of this Court in Expeditious Trial of Cases under Section 138 of NI Act, 1881, In re [Expeditious Trial of Cases under Section 138 of NI Act, 1881, In re, (2021) 16 SCC 116 : 2021 SCC OnLine SC 325] has emphasised that the judiciary cannot transgress into the domain of policy making by rewriting a statute, however strong the temptations may be. This Court observed : (SCC para 20)

“20. ... Conferring power on the court by reading certain words into provisions is impermissible. A Judge must not rewrite a statute, neither to enlarge nor to contract it. Whatever temptations the statesmanship of policy-making might wisely suggest, construction must eschew interpolation and evisceration. He must not read in by way of creation [J. Frankfurter, “Of Law and Men :

⁸ (2022) 1 SCC 701



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

WEB COPY

Papers and Addresses of Felix Frankfurter”]. The Judge's duty is to interpret and apply the law, not to change it to meet the Judge's idea of what justice requires [Duport Steels Ltd. v. Sirs, (1980) 1 WLR 142 (HL)]. The court cannot add words to a statute or read words into it which are not there [Union of India v. Deoki Nandan Aggarwal, 1992 Supp (1) SCC 323 : 1992 SCC (L&S) 248].”

21. *It is a settled principle of law that when the words of a statute are clear and unambiguous, it is not permissible for the court to read words into the statute. A Constitution Bench of this Court in Padma Sundara Rao v. State of T.N. [Padma Sundara Rao v. State of T.N., (2002) 3 SCC 533] has observed : (SCC p. 542, paras 12 & 14)*

“12. ... the court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the legislature. The language employed in a statute is determinative factor of legislative intent. The first and primary rule of construction is that the intention of the legislation must be found in the words used by the legislature itself. The question is not what may be supposed and has been intended but what has been said.

14. While interpreting a provision the court only interprets the law and cannot legislate it. If a provision of law is misused and subjected to the abuse of process of law, it is for the legislature to amend, modify or repeal it, if deemed necessary.”

22. *The court is entrusted by the Constitution of the power of judicial review. In the discharge of its mandate, the court may evaluate the validity of a legislation or rules made under it. A statute may be invalidated if it is ultra vires constitutional guarantees or transgresses the legislative domain entrusted to the enacting legislature. Delegated legislation can, if it results in a constitutional infraction or is contrary to the ambit of the enacting statute be invalidated. However, the court in the exercise of judicial review cannot supplant the terms of the provision through judicial interpretation by rewriting statutory language. Draftsmanship is a function entrusted to the legislature. Craftsmanship on the judicial side cannot transgress into the legislative domain by rewriting the words of a statute. For then, the judicial craft enters the forbidden domain of a legislative draft. That*



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

precisely is what the Division Bench of the High Court has done by its interim order.”

20. The next question would be whether this Bench could decide the controversy regarding the maintainability of Section 9 petition under the Act. No doubt, the Co-ordinate Bench of this Court in the case of **Gopuram Enterprises Ltd.**, (cited supra), has taken a view that once Execution petition is filed, petition under Section 9 of the Act is not maintainable. Following the said judgment, the learned Single Judges have passed at least two orders which we have referred and another learned Single Judge has referred the issue to the Larger Bench. We are aware of the legal principles settled by the Constitution Bench in the case of **Pranay Sethi** (cited supra), wherein in Paragraph 20, the Apex Court has held by referring the judgment in the case of **Pradip Chandra Parija Vs. Pramod Chandra Patnaik**⁹, which is also a constitution Bench judgment dealing with a situation where a Two Judge Bench disagreeing with a Three Judge Bench's decision, directing the matter to be placed before the Larger Bench of Five Judges of this Court. In that scenario, the Constitution Bench has stated as under:-

“20.

“6. ... In our view, judicial discipline and propriety demands that a Bench of two learned Judges should follow a decision of a Bench

⁹ (2002) 1 SCC 1



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

WEB COPY

of three learned Judges. But if a Bench of two learned Judges concludes that an earlier judgment of three learned Judges is so very incorrect that in no circumstances can it be followed, the proper course for it to adopt is to refer the matter before it to a Bench of three learned Judges setting out, as has been done here, the reasons why it could not agree with the earlier judgment. ...”

21. In the present case, at least three judgements have been brought to the notice of this Court already decided by the Hon'ble Supreme Court of India with regard to the issue on hand. When the Hon'ble Supreme Court of India has already dealt with the maintainability of a petition under Section 9 of the Act, after passing of the Arbitral Award, then there is no impediment for this Court to examine the principles laid down by the Supreme Court and follow the same, which becomes a binding precedent as far as the Division Bench of the High Court is concerned. In the event of arriving a conclusion that the Supreme Court judgments would be sufficient for the purpose of deciding the issues regarding maintainability, this Bench need not go into the judgments of the Division Bench of this Court or any other High Court relied on between the parties.

22. Let us now examine the scope of Section 9 in its plain language.

Section 9 of the Act reads as under:-



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

WEB COPY

“9. Interim measures, etc., by Court.—1[(1)]A party may, before or during arbitral proceedings or at any time after the making of the arbitral award but before it is enforced in accordance with section 36, apply to a court—

(i) for the appointment of a guardian for a minor or person of unsound mind for the purposes of arbitral proceedings; or
(ii) for an interim measure of protection in respect of any of the following matters, namely:—

(a) the preservation, interim custody or sale of any goods which are the subject-matter of the arbitration agreement;

(b) securing the amount in dispute in the arbitration;

(c) the detention, preservation or inspection of any property or thing which is the subject-matter of the dispute in arbitration, or as to which any question may arise therein and authorising for any of the aforesaid purposes any person to enter upon any land or building in the possession of any party, or authorising any samples to be taken or any observation to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence;

(d) interim injunction or the appointment of a receiver;

(e) such other interim measure of protection as may appear to the Court to be just and convenient, and the Court shall have the same power for making orders as it has for the purpose of, and in relation to, any proceedings before it.

[(2) Where, before the commencement of the arbitral proceedings, a Court passes an order for any interim measure of protection under sub-section (1), the arbitral proceedings shall be commenced within a period of ninety days from the date of such order or within such further time as the Court may determine.

(3) Once the arbitral tribunal has been constituted, the Court shall not entertain an application under sub-section (1), unless the Court finds that circumstances exist which may not render the remedy provided under section 17 efficacious.]”

23. A plain reading of Section 9(1) of the Act states that a party may, before or during arbitral proceedings, or at any time after the making of the arbitral award but before it is enforced in accordance with Section 36, apply



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

to a Court for interim measure. The wording of this Section allows parties to seek interim relief from Courts before, during arbitration proceedings or at any time after the award is passed, but before it is enforced. So, when the wording of the Section is clear, the term “enforced” can only be taken as it is and any further meaning cannot be accorded to it. Further, the timeline is elucidated clearly in the Section, whereby the Section applies at any time after the award is passed and before it is enforced. So, there is no scope for treating the word “enforced” as “enforceable”. The timeline itself describes the scenario clearly and hence, no further interpretation is required.

24. The language of Section 9(1) enunciates a distinct timeline specifically leaving no space for any further interpretation. The three specific scenarios enlisted includes, before, during or at any time after passing arbitral award, but before execution. Here, the time gap specified in the third prong is crystal clear. When the words employed are pristine, no further meddling is required and meaning as plainly given shall be taken. “Enforced” is the word used, which implies execution of the award. The words cannot be dissected and used to suit each party in arbitration proceedings. The phrases “any time after making of the arbitral award but before it is enforced” illuminates complete meaning within itself. Further, dissection of this third prong is unnecessary and fogs the rationale of



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

Section 9(1). The rationale being is to facilitate the final award and to prevent it from becoming meaningless.

25. It is necessary to consider whether the Supreme Court of India has spoken on the same line on Section 9 of the Act in the case of **Sundaram Finance Limited Vs NEPC India Limited**¹⁰, the Apex Court held as follows:-

“13. Under the 1996 Act, the court can pass interim orders under Section 9. Arbitral proceedings, as we have seen, commence only when the request to refer the dispute is received by the respondent as per Section 21 of the Act. The material words occurring in Section 9 are “before or during the arbitral proceedings”. This clearly contemplates two stages when the court can pass interim orders, i.e., during the arbitral proceedings or before the arbitral proceedings. There is no reason as to why Section 9 of the 1996 Act should not be literally construed. Meaning has to be given to the word “before” occurring in the said section. The only interpretation that can be given is that the court can pass interim orders before the commencement of arbitral proceedings. Any other interpretation, like the one given by the High Court, will have the effect of rendering the word “before” in Section 9 as redundant. This is clearly not permissible. Not only does the language warrants such an interpretation but it was necessary to have such a provision in the interest of justice. But for such a provision, no party would have a right to apply for interim measure before notice under Section 21 is received by the respondent. It is not unknown when it becomes difficult to serve the respondents. It was, therefore, necessary that provision was made in the Act which could enable a party to get interim relief urgently in order to protect its interest. Reading the section as a whole it appears to us that the court has jurisdiction to entertain an application under Section 9 either before arbitral proceedings or during arbitral proceedings or after the making of

¹⁰ (1992) 2 SCC 479



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

the arbitral award but before it is enforced in accordance with Section 36 of the Act.”

26. In the case of **Seppo Electric Power Construction Corporation Vs. Power Mech Projects Ltd.**¹¹, the Apex Court held as follows:-

“24. Section 9 expressly empowers the Court to pass orders securing the amount in dispute in the arbitration and/or any interim measure or protection as may appear to the Court to be just and convenient.

34. Section 9 of the Arbitration Act confers wide power on the Court to pass orders securing the amount in dispute in arbitration, whether before the commencement of the Arbitral proceedings, during the Arbitral proceedings or at any time after making of the arbitral award, but before its enforcement in accordance with Section 36 of the Arbitration Act. All that the Court is required to see is, whether the applicant for interim measure has a good prima facie case, whether the balance of convenience is in favour of interim relief as prayed for being granted and whether the applicant has approached the court with reasonable expedition.”

27. In the case of **Hindustan Construction Company Limited** (cited supra), the Apex Court has referred the judgment of the Division Bench of the Bombay High Court in **Dirk India Private Ltd.**, (cited supra), and held as follows:-

“36. Interpreting Section 9 of the Arbitration Act, 1996, a Division Bench of the Bombay High Court in Dirk (India) (P) Ltd. v. Maharashtra State Power Generation Co. Ltd. [Dirk (India) (P) Ltd. v. Maharashtra State Power Generation Co. Ltd., 2013

¹¹ 2022 SCC OnLine SC 1243



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

WEB COPY

SCC OnLine Bom 481 : (2013) 7 Bom CR 493] held that: (SCC OnLine Bom para 13)

“13. ... The second facet of Section 9 is the proximate nexus between the orders that are sought and the arbitral proceedings. When an interim measure of protection is sought before or during arbitral proceedings, such a measure is a step in aid to the fruition of the arbitral proceedings. When sought after an arbitral award is made but before it is enforced, the measure of protection is intended to safeguard the fruit of the proceedings until the eventual enforcement of the award. Here again the measure of protection is a step in aid of enforcement. It is intended to ensure that enforcement of the award results in a realisable claim and that the award is not rendered illusory by dealings that would put the subject of the award beyond the pale of enforcement.

37. *This being the legislative intent, the observation in NALCO [National Aluminium Co. Ltd. v. Pressteel & Fabrications (P) Ltd., (2004) 1 SCC 540] that once a Section 34 application is filed, “there is no discretion left with the Court to pass any interlocutory order in regard to the said award...” flies in the face of the opening words of Section 9 of the Arbitration Act, 1996, extracted above.*

38. *Thus, the reasoning of the judgments in NALCO [National Aluminium Co. Ltd. v. Pressteel & Fabrications (P) Ltd., (2004) 1 SCC 540] , and Fiza Developers & Inter-Trade (P) Ltd. [Fiza Developers & Inter-Trade (P) Ltd. v. AMCI (India) (P) Ltd., (2009) 17 SCC 796 : (2011) 2 SCC (Civ) 637] being per incuriam in not noticing Sections 9, 35 and the second part of Section 36 of the Arbitration Act, 1996, do not commend themselves to us and do not state the law correctly. [In NALCO, (2004) 1 SCC 540, this Court was concerned with two questions—the second question being whether the appropriate court, for the purpose of challenging or seeking modification of an award, was the Supreme Court, or the Principal Civil Court of original jurisdiction under Section 2(e) of the Arbitration Act, 1996. This Court held, distinguishing State of M.P. v. Saith & Skeleton (P) Ltd., (1972) 1 SCC 702 and Guru Nanak Foundation v. Rattan Singh & Sons, (1981) 4 SCC 634, that the court which had jurisdiction to modify and/or set aside the award was not the Supreme Court. On this*



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

WEB COPY

point, NALCO, (2004) 1 SCC 540 has subsequently been followed by a number of judgments and continues to be good law. Also, the ratio of the judgment in Fiza Developers & Inter-Trade (P) Ltd., (2009) 17 SCC 796 : (2011) 2 SCC (Civ) 637 on the construction of Section 34 of the Arbitration Act, 1996 relating to the framing of issues and pleadings and proof required in Section 34 proceedings remains untouched by the present judgment.] The fact that NALCO [National Aluminium Co. Ltd. v. Pressteel & Fabrications (P) Ltd., (2004) 1 SCC 540] has been followed in National Buildings Construction Corpn. Ltd. v. Lloyds Insulation (India) Ltd. [National Buildings Construction Corpn. Ltd. v. Lloyds Insulation (India) Ltd., (2005) 2 SCC 367] does not take us any further, as National Buildings Construction Corpn. Ltd. [National Buildings Construction Corpn. Ltd. v. Lloyds Insulation (India) Ltd., (2005) 2 SCC 367] in following NALCO [National Aluminium Co. Ltd. v. Pressteel & Fabrications (P) Ltd., (2004) 1 SCC 540] , a per incuriam judgment, also does not state the law correctly. Thus, it is clear that the automatic stay of an award, as laid down by these decisions, is incorrect. The resultant position is that Section 36—even as originally enacted—is not meant to do away with Article 36(2) of the UNCITRAL Model Law, but is really meant to do away with the two bites at the cherry doctrine in the context of awards made in India, and the fact that enforcement of a final award, when read with Section 35, is to be under the CPC, treating the award as if it were a decree of the court.”

28. Regarding the ground raised on behalf of the respondents that the issue has already been referred by the learned Single Judge to the Larger Bench, the appellants relied on the judgment of the Supreme Court in the case of **Ashok Sadarangani and another Vs. Union of India and others**¹² and the relevant paragraphs 23 and 29 read as under:-

“23. The learned Additional Solicitor General contended that having regard to the divergent views expressed by different
¹² (2012) 11 SCC 321



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

Benches of this Court, when the same issue surfaced in Gian Singh v. State of Punjab [(2010) 15 SCC 118] , wherein the decisions in B.S. Joshi case [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] , Nikhil Merchant case [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858] and Manoj Sharma case [(2008) 16 SCC 1 : (2010) 4 SCC (Cri) 145] came to be considered, the Bench comprised of two Judges, was of the view that the said decisions required reconsideration and directed that the matter be placed before a larger Bench to consider the correctness of the said three decisions. Shri Jain urged that as the same issue which was involved in the present case was also the subject-matter of the reference to a larger Bench, this Court should abstain from pronouncing judgment on the issue which was the subject-matter in the said reference. Shri Jain urged that in the circumstances mentioned hereinabove, no relief could be given to the petitioners on the writ petition and the same was liable to be dismissed.

29. As was indicated in Harbhajan Singh case [Harbhajan Singh v. State of Punjab, (2009) 13 SCC 608 : (2010) 1 SCC (Cri) 1135] , the pendency of a reference to a larger Bench, does not mean that all other proceedings involving the same issue would remain stayed till a decision was rendered in the reference. The reference made in Gian Singh case [(2010) 15 SCC 118] need not, therefore, detain us. Till such time as the decisions cited at the Bar are not modified or altered in any way, they continue to hold the field.”

29. Close reading of the principles laid down by the Apex Court in the judgment cited supra, this Court has no hesitation in arriving a conclusion that Section 9 is a stand-alone provision, which intends to protect the holder of an arbitral award before arbitration proceedings and after passing of the arbitrator award, but before the award is enforced. It is a special enactment contemplates an interim measure etc., by Courts, which has no direct connection with any other provisions of the Act, including Section 36 in



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

Chapter VIII, which speaks about enforcement of arbitral award. Section 36 is all about enforcement, which can be done in accordance with the provisions of the Code of Civil Procedure. Reference to Section 36 made under Section 9 is only for the purpose of understanding the third prong contemplated under Section 9 paving way for an arbitral award holder to seek interim measure under Section 9 even after passing of the award, but before its enforcement. The word “enforced” denotes complete satisfaction of the award. Therefore, mere institution of Execution proceedings would do no service to the cause of justice, unless the award holder enjoys the fruits of the award. The Parliament thought fit that the award passed must be protected even after passing award and before its enforcement, despite the remedies available under the Code of Civil Procedure in an Execution proceedings.

30. An important facet of Section 9 is the proximate nexus between the orders that are sought and the arbitral proceedings. When an interim measure of protection is sought before or during the arbitration proceedings, such a measure is a step in aid to the fruition of the arbitral proceedings. When sought after an arbitral award is made, but before it is enforced, the measure of protection is intended to safeguard the fruit of the



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

WEB COPY

proceedings until the eventual enforcement of the award. Here, again the measure of protection is a step in aid of enforcement.

31. That apart, the Parliament thought fit to secure interim measures through Court, even before initiation of arbitral proceedings, it equally thought fit to extend the interim measure even after passing of the arbitral award, but before its enforcement. The Courts are not expected to travel beyond the scope of the words employed under Section 9, which is unambiguous and the language is also clear.

32. That apart, the Supreme Court, more than one occasion has ruled that Section 9 application is maintainable even after passing of an award but before its execution. Mere institution of Execution proceedings or pendency of Execution proceedings, if taken into consideration for rejecting Section 9 application, then the very purpose and object of Section 9 would be defeated and in this view of the matter, this Court has arrived an irresistible conclusion that, after passing of arbitral award and before it is enforced, Section 9 petition is maintainable and the applicant, seeking interim relief under Section 9 is entitled to secure interim protection on merits by adjudication of facts on case-by-case basis.



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

WEB COPY

33. Since the impugned order dismissing the Section 9 application is passed on the ground of maintainability and relative merits have not been adjudicated completely by the learned Single Judge, it would be appropriate for this Court to remit the matter back to the learned Single Judge for adjudication of relative merits and for passing appropriate orders.

34. Accordingly, the impugned order dated 30.10.2025 passed in O.A.Nos.997 & 998 of 2025 is set aside and the matter is remitted back to the learned Single Judge for adjudication of issues on merits and to pass appropriate orders. Till such time, the matter is taken up by the learned Single Judge for fresh hearing, interim injunction in CMP No.29782 of 2025 as such sought for in the said application is granted. After commencement of the hearing, it is for the learned Single Judge to consider granting of extension of interim relief or pass any other appropriate orders, as the case may be, on merits. Consequently, connected Miscellaneous Petitions are closed.

(S.M.SUBRAMANIAM J.)(C.KUMARAPPAN J.)
03-12-2025

kmi/ar

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

Note: Issue order copy on 05.12.2025



WEB COPY



OSA(CAD) Nos.118, 119,
135 & 136 of 2025

S.M.SUBRAMANIAM J.
AND
C.KUMARAPPAN J.

kmi/ar

**OSA(CAD) Nos.118,
119, 135 & 136 of 2025
AND
CMP NOS. 27672,
27666, 27675, 27678,
29773, 29775, 29780
& 29782 OF 2025**

03-12-2025