

23.02.2026.
Item No. 5.
Court No. 13
ap

F.M.A.T. (ARBAWARD) 6 of 2026
With
IA NO: CAN/1/2026
Tirath Project & Ors.
Versus
Harunal Rasid @ Harunal Rasid Hazra

Mr. Saurabh Guhathakurata,
Mr. Santanu Singha,
Mr. Subir Majumdar,
Mr. Abhratanu Sarkar.

...For the appellants.

Mr. Dwijadas Chakraborty,
Mr. H. Rasid.

...For the respondent.

1. The instant appeal is directed against the order dated 12th December, 2025 being Order No.11 passed by the learned Additional District Judge, 3rd Court, Barasat, North 24 Parganas in Misc. Case No. 25 of 2025.
2. By the said order, the Court below declined the prayer for vacating the interim order already passed by the Court dated 3rd July, 2025.
3. The principal ground urged by the learned Counsel for the appellant is that the arbitration proceedings have not commenced within 90 days of the order dated 3rd July, 2025.
4. It appears from the records that the respondent has invoked the Arbitration Clause and appointed a learned Advocate of the District Court at Barasat as Arbitrator, Shri Manas Mitra.

5. The appellants have agreed to the appointment of Shri Manas Mitra as Arbitrator. The Arbitration Clause has, therefore, been invoked and the proceedings must be deemed to have commenced.

6. Curiously, the learned Arbitrator has by a letter dated 6th February, 2026 stated that the Arbitration Proceeding had not been initiated by the respondent.

7. It, therefore, follows that as on 6th February, 2026, the respondent has not notified the name of the Arbitrator or commenced proceedings thereafter. The interim order of injunction passed by the Trial Court, therefore, is hit by Sub-Section (2) of Section 9 of the Arbitration and Conciliation Act, 1996.

8. However, this Court notes that the failure on the part of the Arbitrator to commence the proceedings as communicated in the letter dated 6th February, 2026 may not have been in accordance with law.

9. The Arbitrator shall forthwith commence proceedings of the Arbitration and the parties shall communicate this order to the learned Arbitrator.

10. Since the allegations of the respondent is that the appellants are trying to create third party interest in the suit property belonging to the respondent that being developed by the appellants, inter alia, for denying the share of the respondent in the property to be developed, this Court is not inclined to interfere with the impugned order. The same may continue until conclusion of the arbitration proceedings.

11. Since both parties have expressed willingness to have their disputes resolved by mediation and the Arbitrator under the Act of 1996 being empowered with the Authority to conciliate between the parties, the Arbitrator himself may act as a mediator and/or conciliator and try to resolve the disputes and difference between them amicably, if possible.

12. On failure of the conciliation proceeding, the arbitrator shall continue in accordance with law.

13. It is made clear that the attempt at conciliation or mediation shall be completed by the Arbitrator within a period of two months from the date of communication of this order mandatorily and positively, failing which the respondent shall file Statement of Claim before the Arbitrator within a period of fifteen days thereafter. The appellants shall file Statement of Defence and Counterclaim, if any, within a period of fifteen days thereafter.

14. The communication dated 6th February, 2026 issued by the Arbitrator is kept with the records.

15. Since the respondent has not been called upon to use any affidavit, none of the allegations made by one party against the other shall be deemed to have been admitted.

16. With the aforesaid observations, FMAT (ARBAWARD) 6 of 2026 shall stand disposed of.

17. In view of disposal of the appeal itself, the connected application being CAN 1 of 2026 shall also stand disposed of.

18. There will be no order as to costs.

19. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Md. Shabbar Rashidi, J.)