

DL-7

09.04.2026

Court No.37

[Bench ID-**266362**]

(AD)

(Disposed of)

In the High Court at Calcutta

Civil Appellate Jurisdiction

Appellate Side

(Commercial Appellate Division)

AO-COM 3 of 2026

with

IA NO: CAN 1 of 2026

Saral Construction Advisory Private Limited & Ors.

Vs.

Sunidhi Estates Private Limited & Ors.

Mr. Jaydip Kar, Ld. Sr. Advocate

Mr. Anuj Singh, Advocate

Ms. Trinisha De, Advocate

Mr. Rupal Singh, Advocate

Ms. Anukriti Poddar, Advocate

Mr. Shivam Chaturvedi, Advocate

Mr. Ashok Kumar Singh, Advocate

... for the appellants

Mr. Jishnu Saha, Ld. Sr. Advocate

Mr. Somdutta Bhattacharya, Advocate

... for the respondent no.1

Mr. Rajarshi Dutta, Advocate

Mr. Deepak Kuman Jain, Advocate

... for the respondent no.2

Mr. Abhrajit Mitra, Ld. Sr. Advocate

Mr. Aritra Deb, Advocate

... for the respondent nos.5,9 & 13

Mr. Shounak Mukherjee, Advocate

Mr. Arpit Agarwal, Advocate

... for the respondent nos.14 & 15.

1. Appeal is under Section 37 of the Arbitration and Conciliation Act, 1996.

2. Appeal is directed against Order No.02 dated January 22, 2026 passed in Misc. Arb. (Com) 03

of 2026 by the learned Commercial Court at Alipore.

3. By the impugned order, the learned Trial Judge refused to grant ad interim injunction under Section 9 of the Act of 1996.
4. Learned Senior Advocate appearing for the appellants submits that, in terms of a development agreement in respect of the immovable property concerned, the developer disposed of and dealt with all flats comprised in Phase-I of the construction. Phase-II of the construction is ongoing. He submits that, unless the developer is restrained from dealing with the flats in Phase-II, serious prejudice should be caused since the developer disposed of the 104 flats comprised in Phase-I.
5. In response to a query of the Court, learned Senior Advocate appearing for the appellants submits that, notice under Section 21 of the Act of 1996 was issued on April 4, 2026.
6. The respondents are represented.
7. In response to a query of the Court, the learned Advocate for the developer being the respondent no.1 submits, on instructions, that, the respondent no.1 dealt with all the 104 flats comprised in Phase-I. According to the respondent no.1, such dealing was strictly in accordance with the agreement between the

parties. Construction on the Phase-II is ongoing. Respondent no.1 is yet to deal with any of the flats comprised in Phase-II.

8. There is a development agreement under which, the developer is constructing buildings in two phases. The Court is informed that the first phase construction is nearing completion. 104 flats are involved in the first phase. Appellants claim to be entitled to 11,326 sq. ft. of the constructed area in Phase-I. Stand of both the appellants and the respondent no.1 is that, in respect of the Phase-I all 104 flats stand dealt with by the respondent no.1.
9. The contention of the respondent no.1 is that, the dealing is in accordance with the agreement while the contention of the appellants is that, the respondent no.1 acted in breach of the agreement and sought to deal with flats not falling within the allocation of the developer.
10. These rival contentions are required to be adjudicated upon by the appropriate forum.
11. Arbitral Tribunal is yet to be constituted. Notice under Section 21 of the Act of 1996 was issued.
12. In such circumstances, it would be appropriate to ensure that the subject-matter of the lease is protected for a temporary period of time.
13. In the facts and circumstances of the present case, we, therefore, restrain the respondent no.1

from creating third party rights in respect of the flats in Phase-II without leaving apart a constructed area of 11,326 sq. ft. which is claimed to be the allocation of the appellants in Phase-I.

14. This interim order will continue for a period of fortnight from the date of the Arbitral Tribunal entering into reference.
15. This order will not prevent the appellants from applying for interim relief before the Arbitral Tribunal.
16. All points including the prayer for interim relief are kept open to be decided by the Arbitral Tribunal. None of the parties will be prejudiced by any observations made by us.
17. The Arbitral Tribunal is at liberty to decide the prayer for interim relief in accordance with law without being influenced by any of the observations made by us in this order.
18. Learned Senior Advocate appearing for the appellants, on instructions, submits that, the appellants will apply for disposal of the pending applications under Section 9 of the Act of 1996 in terms of this order.
19. Such statement is placed on record.
20. The parties are at liberty to move the Court before which the application under Section 9 of the Act of 1996 is pending for disposal in terms of this order.

21. **AO-COM 3 of 2026** along with connected application is **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)