

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
COMMERCIAL APPELLATE DIVISION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

AO-COM 21 of 2026

Srei Equipment Finance Limited

Vs.

Gayatri Granites Industries

with

AO-COM 22 of 2026

Srei Equipment Finance Limited

Vs.

Gayatri Granites

with

AO-COM 17 of 2026

with

IA No.: CAN 1 of 2026

IA No.: CAN 2 of 2026

Srei Equipment Finance Limited

Vs.

Gayatri Granites Industries

with

AO-COM 18 of 2026

with

IA No.: CAN 1 of 2026

IA No.: CAN 2 of 2026

Srei Equipment Finance Limited

Vs.

Gayatri Granites

with

AO-COM 19 of 2026

with

IA No.: CAN 1 of 2026

Srei Equipment Finance Limited

Vs.

Gayatri Granites Industries

with

**AO-COM 20 of 2026
with
IA No.: CAN 1 of 2026
Srei Equipment Finance Limited
Vs.
Gayatri Granites**

For the Appellant : Mr. Jaydip Kar, Ld. Sr. Advocate
Mr. Swatarup Banerjee, Advocate
Mr. Sariful Haque, Advocate
Mr. Rajib Mullick, Advocate
Ms. Rupjaani Sen, Advocate

For the Respondent : Mr. S. N. Mookherjee, Ld. Sr. Advocate
Mr. R. Banerji, Ld. Sr. Advocate
Mr. Krishna Raj Thakkar, Advocate
Mr. Nirmally Dasgupta, Advocate
Ms. Mary Datta, Advocate

Hearing & Judgment on : **May 19, 2026**

DEBANGSU BASAK, J.:-

1. Six appeals are taken up for final hearing as they emanate out of the two suits between the same parties. Issues raised are similar.
2. Both the suits essentially are of specific performance of two agreements. The agreements relate to repayment of money lent and advanced.
3. Appellant lent and advanced diverse sums to the respondent by way of several agreements. Two several arbitration proceedings in respect of the transactions of money lent and advanced are pending between the parties under the provisions of the Arbitration and Conciliation Act, 1996.
4. In those two several arbitration proceedings, before the learned Arbitrator, an application under Section 30 of the Act of 1996 was filed by the

respondent on the basis of the memorandum of settlement entered into between the parties pending the arbitration proceedings. In one of the arbitration proceedings, learned Arbitrator disposed of the Section 30 application.

5. Two suits were filed by the respondent seeking specific performance of the memorandum of settlement entered into between the parties. In such two suits, the respondent applied under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 and obtained an *ex parte* ad interim order of injunction restricting the appellant from giving effect to the letter of termination.
6. The *ex parte* ad interim order was subsequently extended twice. Hence, these appeals.
7. At the outset, we called upon the respondent to establish its readiness and willingness to perform the contracts entered into between the parties. The contracts are two several memorandum of settlements.
8. The two several memorandum of settlements require the respondent to pay diverse amounts as specified therein to the appellant. Respondent is yet to pay the appellant the entirety of the agreed amounts.
9. Learned Senior Advocate appearing for the respondent submits that, the respondent will require further time to pay in terms of the two memorandum of settlements.

10. In a suit for specific performance, it is trite law that the plaintiff must establish its readiness and willingness to perform the contracts to obtain any relief therein.
11. In the facts and circumstances of the present case, the respondent as the plaintiff is neither ready nor willing to perform its obligations under the two memorandum of settlements. The question, therefore, of the respondent as the plaintiff making out a *prima facie* case to go to trial or balance of convenience and inconvenience being in favour of the respondent as the plaintiff or the respondent suffering any irreparable loss does not arise.
12. In such circumstances, the orders impugned are set aside.
13. **AO-COM 21 of 2026, AO-COM 22 of 2026, AO-COM 17 of 2026, AO-COM 18 of 2026, AO-COM 19 of 2026 and AO-COM 20 of 2026** along with all connected applications are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

14. I agree.

(AD)

(Md. Shabbar Rashidi, J.)