

22.05.2026
Item No.1
Court No.37
CHC
(disposed of)

In The High Court at Calcutta
Civil Appellate Jurisdiction
Commercial Division
Appellate Side

AO-COM/24/2026
IA NO: CAN/1/2026

Bharat Overseas Private Limited & Anr.
Vs.
Shristi Infrastructure Development Corporation
Limited

Mr. Jishnu Chowdhury, Senior Advocate
Mr. Satadeep Bhattacharyya, Advocate
Mr. Saptarshi Datta, Advocate
Ms. Srishti Agarwal, Advocate
Ms. Sriparna Mitra, Advocate
Mr. Pourush Kanti Pal, Advocate
Ms. Srinjita Ghosh, Advocate
Mr. Debdut Hore, Advocate
...for the appellants

Mr. Jishnu Saha, Senior Advocate
Mr. Ratul Das, Advocate
Ms. Bhawna Tebriwal, Advocate
...for the respondent

1. Appeal is directed against order no.2 dated March 24, 2026, passed in Misc Arb (Com) 10 of 2026 by the learned Judge, Commercial Court at Alipore.
2. Learned Senior Advocate appearing for the appellants submits that, the impugned order was passed under Section 9 of the Arbitration and Conciliation Act, 1996. He submits that, such petition was filed by the respondent on February 18, 2026. He refers the order no.1 dated February 19, 2026. He submits that, the respondent was directed by the learned Judge, to serve a copy of the application under Section 9 of the

Act of 1996 upon the appellants. May 5, 2026 was fixed for service return and appearance of the appellants.

3. Learned Senior Advocate appearing for the appellants submits that, the appellants did not receive any notice in terms of order no.1 dated February 19, 2026 till March 24, 2026. However, appellant received a copy of the order no.2 dated March 24, 2026 from the respondent.
4. Learned Senior Advocate appearing for the appellants draws the attention of the Court to the impugned order. He submits that, by the impugned order, an order of injunction was granted till disposal of the injunction petition. He points out that, the impugned *ex parte* ad interim order was also does not conform with the requirements under Order 39 Rule 3A of the Code of Civil Procedure, 1908.
5. Learned Senior Advocate appearing for the respondent submits that, on May 5, 2026, the appellants entered appearance in the proceeding. The appellants may be directed to file their written objection if any with the liberty to the respondent to submit a rejoinder thereto. Learned Trial Judge may be requested to hear and decide the injunction petition on June 11, 2026.
6. In response, learned Senior Advocate appearing for the appellants submits that, the appellants will file its

affidavit-in-opposition to the application under Section 9 of the Act of 1996 within a week from date.

7. We find from the records that, initially, the respondent filed an application under Section 9 of the Act of 1996 in which, order no.1 dated February 19, 2026 was passed.
8. The order dated February 19, 2026 required the respondent to serve a copy of the application upon the appellants. May 5, 2026 was fixed for service return and appearance of the appellants before the learned Judge.
9. Records made available to Court do not suggest that, the respondent complied with the order no.1 dated February 19, 2026 till March 24, 2026 with the impugned order was passed.
10. On March 24, 2026, the respondent filed a put up petition before learned Judge and obtained the impugned ad interim *ex parte* order of injunction.
11. The impugned order, is not in conformity with the provisions of Order 39 of the Code of Civil Procedure, 1908. The impugned order is an *ex parte* ad interim order of injunction. The direction contained in the impugned order is that, such order of injunction will continue till the disposal of the injunction application. That *per se* exhibits a closure of mind of the learned Judge with regard to the merits of the matter without permitting the appellants before us to submit its

response to the application under Section 9 of the Act of 1996.

12. The impugned order does not reflect that, the attention of the Court was drawn to order no.1 dated February 19, 2026. Subjective satisfaction of the learned Judge as to the necessity to pass *ex parte* ad interim order as prayed for is also not recorded.
13. Significantly, we find that, the impugned order dated March 24, 2026 when it required the respondent to serve a copy of such order upon the appellants, the same was complied with and a compliance affidavit was filed on March 25, 2026. This conduct of the respondent, is in stark contrast with its conduct subsequent to order no.1 dated February 19, 2026 which also required the respondent to serve the appellants. The appellants were not served till March 24, 2026.
14. In such circumstances, we set aside the impugned order.
15. We clarify that, we did not enter into the merits of the rival contentions with regard to the necessity to pass an order of injunction.
16. We keep all points open for the learned Judge to decide.
17. In view of the invitation of the parties before us, the appellants will file its affidavit-in-opposition to the application under Section 9 of the Act of 1996 before

the learned Judge within seven days from date.

Affidavit-in-reply within seven days thereafter.

18. Learned Judge is requested to hear and dispose of the application under Section 9 of the Act of 1996 on June 11, 2026.

19. **AO-COM/24/2026** along with connected application are disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)