



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION PETITION NO.49 OF 2025

Shantilal Parmar and Ors.

...Petitioners

V/s.

M/s. Cambtex & Others

...Respondents

Ms. Anisha Balse *i/b. Mr. Prerak P. Choudhary for the Petitioners.*

Mr. Faiz K. Khan *for Respondent Nos.1 to 4.*

CORAM: SANDEEP V. MARNE, J.

DATED: 16 JANUARY 2026.

P.C.:

1) This is a Petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 seeking interim measures before commencement of arbitral proceedings. The disputes and differences between the parties have arisen out of Memorandum of Understanding dated 21 December 2023, by which the Petitioners have agreed to purchase the property bearing Shop Nos.4 and 5 situated at A.N. House CHS, 31st Road, Bandra-West. Mumbai- 400 050.

2) I have heard Ms. Balse, the learned counsel appearing for the Petitioners and Mr. Khan, the learned counsel appearing for Respondent Nos.1 to 4.

3) Perusal of the MoU dated 21 December 2023 would indicate that there is arbitration agreement in Clause 9, which reads thus:-

9. Governing Law and Dispute Resolution:

This MOU shall be governed by and construed In accordance with the laws of India. All disputes and differences of any nature whatsoever arising between the Parties in connection with or relating to this MOU shall be referred to an Arbitral Tribunal of a sole arbitrator to be appointed mutually by the Parties as per the provisions of the Arbitration and Conciliation Act, 1996. The language of the arbitration shall be English and the place of arbitration shall be Mumbai

4) According to Mr. Khan, under the MoU, Petitioners have agreed to purchase shop Nos.4 and 5 for consideration of Rs.10,90,00,000/- and an amount of only Rs.10,00,000/- is paid at the time of execution of the MoU. He would therefore submit that no case is made out for grant of any interim measures in favour of the Petitioners.

5) It appears that on 23 October 2024 this Court passed following ad-interim order:-

1. The present Petition arises out of a Memorandum of Understanding (“MoU”) dated 21st December 2022 by a under which the Respondents Nos. 1 to 5 had agreed to sell the following premises to the Petitioners.

“Shop Nos. 4, 5, and 6, A.N. House CHS, lying and being at CTS No. F/769, 770, 771 TPS 3, Village Bandra, 31st Road, Bandra West, Mumbai 400 050.”

2. The Learned Counsel appearing on behalf of the Petitioners has invited my attention to the said MoU. He pointed out that in terms of thereof an amount of Rs.10 lakhs have been paid as and by way of security deposit. He further submits that his client is ready and willing to pay the balance amount due and payable against the milestone set out in the said MoU. It is, however, his submission that despite entering into the said MoU, the Petitioners became aware of

a Public Notice issued by Respondent No. 6 dated 9th September 2024 which records the intention of Respondent No. 6 to purchase very same premises which the Respondents have under the said MoU agreed to sell to the Petitioners. It is thus the present Petition is moved for ad-interim relief.

3. The Learned Counsel appearing on behalf of the Petitioners has invited my attention to the arbitration clause contained in the said MoU of which I have taken due note. He has placed reliance upon an Affidavit of Service to show that the Respondents are served. Despite which none have appeared.

4. In is in circumstances that the Learned Counsel appearing on behalf of the Petitioners today places for interim reliefs in terms of prayer clause (a) of the Petition. After having heard the Learned Counsel appearing on behalf of the Petitioners as also perusing the MoU, as also the fact that today despite being served none has appeared for the Respondents, I find a case for the grant of ad-interim reliefs has been made out.

5. I therefore, grant ad-interim relief in terms of prayer clause (a) which reads thus:

“(a) pending the arbitral proceedings and making of the Arbitral Award, Respondents be enjoined from creating third party rights including inter-alia selling, mortgaging, transferring, disposing, alienating or in any manner dealing with or parting with possession of the said Property viz Shop Nos. 4, 5, and 6, A.N. House CHS, lying and being at CTS No. F/769, 770, 771 TPS 3, Village Bandra, 31st Road, Bandra West, Mumbai 400 050 (said Property).”

6. List the matter on 4th December 2024 for further reliefs.

7. The Learned Counsel appearing on behalf of the Petitioners undertakes to serve the Respondents with a copy of this order.

8. The Learned Counsel appearing on behalf of the Petitioners undertakes to file an Affidavit of Service with a postal acknowledgment in the Registry of this Court.

6) After recording Respondent's contention that the amount paid by the Petitioners under the MoU is only Rs.10,00,000/- and after recording willingness on the part of the Respondents to deposit in the Court amount of Rs.15,00,000/-, the ad-interim order dated 23

October 2024 came to be modified by order dated 24 March 2025, which reads thus:-

1. Subject to the Respondents depositing with the Registry of this Court a sum of Rs.15 Lakhs no later than April 4, 2025, the ad-interim ex-parte stay granted on October 23, 2024 shall stand vacated.
2. List this matter on April 7, 2025 on the Supplementary Board, on which date further directions including appointment of an arbitrator shall be considered, since the parties are suggesting that nothing may survive if the parties are referred to Arbitration, as the claims therein would focus only on the damages, if any, payable to the either party.
3. All actions required to be taken pursuant to this order, shall be taken upon receipt of a downloaded copy as available on this Court's website.

7) Thus, ad-interim order dated 23 October 2024 was vacated on express statement of Respondents that they would deposit in this Court amount of Rs.15,00,000/- by 4 April 2025. However, till date the deposit is not made by the Respondents. Respondents have thus failed to avail opportunity of vacation of ad-interim stay. While they contend that freeze on the property worth more than Rs.10 crore cannot be imposed on the strength of payment of advance amount of only Rs.10,00,000/-, they themselves are not able to deposit in the Court Rs.15,00,000/-. In that view of the matter, ad-interim stay granted on 23 October 2024 continues to operate. At this stage, Mr. Khan prays for extension of time for making the deposit in terms of order dated 24 March 2025. The request cannot be accepted considering the position that the deposit is not made during past 9 long months. Considering the above position, it would be appropriate to send the parties to arbitration by constitution of Arbitral Tribunal. Ad-interim stay granted on 23 October 2024 can continue during pendency of the arbitration proceedings until making of the Award.

8) Accordingly, I proceed to pass the following order:-

(A) Ms. Apurva Thipsay, an Advocate of this Court is appointed as Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of Memorandum of Understanding dated 21 December 2023. The contact details of the Arbitrator are as under :

Office Address :- Chambers of Dr. Birendra Saraf, 302, Oval House, 3rd Floor, Kala Ghoda, Fort, Mumbai.

Mobile No. :- 9892806541

Email ID :- apurva.thipsay@gmail.com

(B) A copy of this order be communicated to the learned sole Arbitrator by the Advocates for the Petitioner within a period of one week from the date of uploading of this order. The Petitioner shall provide the contact and communication particulars of the parties to the Arbitral Tribunal alongwith a copy of this order.

(C) The learned sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the parties within a period of 2 weeks from receipt of a copy of this order.

(D) The parties shall appear before the learned sole Arbitrator on such date and at such place as indicated by her, to obtain appropriate direction with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc.

(E) The sole Arbitrator shall be entitled to the fees prescribed under the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018 and the arbitral costs and fees of the Arbitrator shall be borne by the parties in equal portion and shall be subject to the final Award that may be passed by the Tribunal.

- 9) All contentions of the parties on merits are expressly kept open to be decided by the Arbitral Tribunal appointed as above.
- 10) The ad-interim stay granted on 23 October 2024 shall continue to operate till making of Award by the Arbitral Tribunal.
- 11) With the above directions, the Petition is **disposed of**.

[SANDEEP V. MARNE, J.]