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Arb Appeal No.28 of 2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-03-2026

CORAM

**THE HONOURABLE MR JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

**Arb Appeal No.28 of 2026
AND
CMP No.5638 of 2026**

ADRPLEXUS Medical Services Pvt Ltd
Rep. by its Authorised Signatory
No.431, 23rd Street, Ashtalakshmi Nagar
Alapakkam, Chennai-600 116

Appellant

Vs

Dr.Vivekandan K.S.
District Psychiatrist, DHMP Salem
Permanent resident of
H/118A, TNHB Kamraj Nagar, Oddapatti,
Dharmapuri 636 705
Also at 603, Suresh Block
Chitra Complex
No.9, Choolaimedu High Road
Chennai-600 094

Respondent

Memorandum of Grounds of Appeal under Section 37(1) and (2) of the Arbitration and Conciliation Act, 1996 to set aside the interim order dated 13.01.2026 passed by the learned sole Arbitrator in I.A.No.6 of 2025 in Arb.No.1 of 2024.

For Appellant: Mrs.S.Manimegalai

For Respondent: Mr.R.N.Amarnath



JUDGMENT

(Judgment of the Court was made by P.Velmurugan J.)

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This appeal has been filed under Section 37(1) & (2) of the Arbitration and Conciliation Act, 1996 against the interim order dated 13.01.2026 passed by the learned sole Arbitrator in I.A.No.6 of 2025 in Arbitration Claim Petition No.1 of 2024.

2. The appellant is the claimant before the learned Arbitrator. The claim petition was filed seeking to direct the respondent to pay a sum of Rs.3,18,86,880/- as compensation/damages for the unilateral violation and breach of the agreement dated 23.08.2021 and other reliefs. Pending adjudication of the said claim, the appellant filed the instant interlocutory application in I.A.No.6 of 2025 to recall the witness/CW1 for further examination, which came to be dismissed by the sole Arbitrator. Hence the appellant is before this Court.

3. The learned counsel for the appellant would submit that at the time of filing the proof affidavit before the sole Arbitrator, to substantiate their claim, the witness/CW1 was examined in chief on their side. Since the iPad supplied by the appellant to the respondent was returned by him later, the said iPad was marked as Ex.C21 pursuant to the order in I.A.No.4 of 2025. However, after



completion of cross-examination of the witness/CW1 by the respondent, on the ground that the contents of the iPad are to be exhibited, the appellant filed the I.A.No.6 of 2025 to recall the witness/CW1. However, the learned Arbitrator failed to consider the same and dismissed the application. Therefore the learned counsel submitted that the impugned order is liable to be set aside.

4. On the other hand, the learned counsel for the respondent would submit that the sole Arbitrator has given sufficient opportunities to the appellant, since after completion of the evidence let in on the side of the appellant, the respondent also let in evidence on his side. At that stage, the appellant filed an application to recall the witness/CW1, which came to be allowed. After closing the evidence subsequent to the recall, once again the appellant filed the present application to recall the very same witness/CW1 during the conclusion of the proceedings. Therefore, the learned Arbitrator found that the appellant is unnecessarily protracting the proceedings and dismissed the application. The learned counsel submitted that the present appeal is not maintainable under Section 37 against the order refusing to recall the witness for the third time at the instance of the appellant/claimant and the same is liable to be dismissed.

5. We have heard the learned counsel appearing on either side and perused the materials available on record.



6. Admittedly, the appellant is the claimant before the sole Arbitrator and pending adjudication of the main claim, the appellant was given opportunity to lead evidence and accordingly, the witness/CW1 was examined in chief on their side. Thereafter, the respondent cross examined the said witness and on completion of the cross-examination, the appellant filed an application to recall the said witness, which was allowed and opportunity was given to the appellant to complete their evidence. Thereafter, the evidence of the appellant was closed and the respondent was given opportunity to lead evidence. After completing the respondent's side evidence, once again the appellant has filed the present application to recall the very same witness for further examination on the ground that the contents of the iPad are to be exhibited.

7. The learned Arbitrator found that on the date of filing of the claim petition, the appellant had been in possession of the iPad, which was returned by the respondent. The appellant has also not pleaded as to how the study materials or software stored in the iPad were shared by the respondent to the rival coaching centre or that the possession of the iPad by the appellant is not accessible. During the adjudication proceedings, after completion of cross-examination of the appellant's witness/CW1, the appellant thought it fit to file the applications in I.A.Nos.2, 3 & 4 of 2025 to recall the witness and to receive the iPad as an additional document, which came to be allowed. The learned Arbitrator also found that on the date of examination of CW1 on the second



occasion, the iPad was very much available with the appellant and that the appellant did not choose to log in the iPad or called upon the respondent to furnish the login details. In spite of sufficient opportunities granted to the appellant to exhibit the contents of the iPad, for the reasons best known to the appellant, the appellant has not utilised the same and therefore, the sole Arbitrator has rightly dismissed the application to recall the witness/CW1 after closing the evidence let in by both sides. Therefore, this Court does not find any error apparent on the face of the record or perversity in the order of the sole Arbitrator and that the present appeal itself is not maintainable under Section 37 of the Arbitration and Conciliation Act. Accordingly, the appeal stands dismissed. Consequently, the interim order stands vacated and the connected CMP is also dismissed. No costs.

(P.VELMURUGAN J.) (K.GOVINDARAJAN THILAKAVADI J.)
18-03-2026

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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THILAKAVADI J.**

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