2026:MHC:4378

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.10.2026

DELIVERED ON : 30.10.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

Arb O.P(COM.DIV.) No. 513 of 2026
CNR:{HCMA011772462026}
and O.A.No.528 of 2025

1. Inderchand Kochar
   No.2 22, Kennet Lane, Egmore
   Chennai - 600008.

2. Jitesh Kumar Kochar
   No.2 22, Kennet Lane, Egmore
   Chennai – 600008.

Petitioner(s)

Vs

D.Devasitham
Residing at No.3/137,
Thazhambur Main Road,
Karanai Village, Thiruporur Taluk,
Kancheepuram – 600130.

Respondent(s)

PRAYER IN O.P.: Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a Sole Arbitrator to adjudicate

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the dispute between the petitioners and the respondent in terms of the Land Aggregator Agreement dated 06.03.2016.

PRAYER IN O.A.: Application filed under Order XIV Rule 8 of the Original Side Rules and Section 9(1)(c) of the Arbitration and Conciliation Act, 1996 to grant an order of interim injunction restraining the respondent, their men, servants, agents or anybody claiming right either under or through them from disposing of, alienating, encumbering, selling, transferring creating any third party rights or charge or interest or dealing with the Schedule mentioned property, more fully described in the application, or any part thereof either through themselves or on behalf of their agents and pass such further or other orders.

For Petitioner(s)/ Applicant(s):	Mr.Nithyeash Natraj for Mr.Anirudh A.Sriram [Thru VC]
For Respondent(s):	Mr.C.Umashankar Asst by Mr.C.Krishna Karthi for Mr.I.Anbupriyan

ORDER

The petitioners have filed the petition under Section 11 of the Arbitration and Conciliation Act, 1996 seeking the appointment of a sole arbitrator. They have also filed an application under Section 9 of the Act in O.A.No.528 of 2025 seeking an interim injunction. This

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judgment disposes of both the arbitration petition and the interim application.

2.1. The facts relevant are that the petitioners own land at Kalavakkam Village, Thiruporur Taluk. They wanted to buy an adjacent plot measuring 24½ cents. The respondent claimed real estate expertise and agreed to act as a land aggregator to acquire this adjacent plot from one Moses and convey it to the petitioners.

2.2. It is asserted that, on 06.03.2016, the parties entered into a Land Aggregator Agreement. The total sale consideration was fixed at Rs.90,00,000/-, which was paid in cash. On 02.03.2022, Moses executed a settlement deed for the property in favour of the respondent. On 12.01.2023, the respondent wrote to the first petitioner confirming that he had acquired the property and would soon execute the sale deed after clearing some minor encroachments.

2.3. The asseverations are to the effect that, instead of conveying the land to the petitioners, the respondent executed a

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General Power of Attorney on 20.02.2023, in favor of one Sairam. Upon discovering this through an encumbrance certificate, the petitioners issued a legal notice under Section 21 of the Act and initiated these proceedings.

3.1. Learned counsel for the petitioners argued that the respondent received the full sale consideration of Rs.90,00,000/-, but breached the agreement by executing a power of attorney in favour of a third party, violating Clause 5 of the agreement.

3.2. Learned counsel pointed out that the respondent has taken contradictory stands in his pleadings. In the counter affidavit filed in the original application, the respondent stated that the agreement is forged, that the stamp paper dates back to October 2015, and that the petitioners filled up blank signed papers; however, in his counter statement filed in the arbitration petition, he baldly stated that the signature on the agreement is not his.

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3.3. He further submitted that the parties made sincere attempts to resolve the matter and went through six rounds of mediation, but these talks failed to yield any fruitful decision.

3.4. Learned counsel for the petitioners relied on the Supreme Court judgment in *Salson Liquors Private Limited v. United Spirits Limited*[1], where the Court held that issues regarding the genuineness or execution of an agreement can be taken up as preliminary issues by the arbitrator, leaving all contentions open for the parties to raise.

4.1. Per contra, learned counsel for the respondent stoutly argued that the agreement is a forged and fabricated document. He contended that no money was paid and that the agreement is unenforceable and against public policy.

4.2. Learned counsel for the respondent placed reliance on a recent Supreme Court decision in *Rajia Begum v. Barnali Mukherjee*[2], wherein it was held that when the very existence of an

1 *Order dated 20.02.2026 in SLP (C) No.16022 of 2025*
2 *2026 INSC 106*

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underlying agreement containing an arbitration clause is seriously disputed on allegations of forgery and fraud, the dispute is rendered non-arbitrable at that stage.

5. This court heard learned counsel for the parties and perused the documents on record and the legal precedents cited at the bar.

6. In the case at hand, the respondent himself admitted to acquiring the property and wrote a confirmatory letter to the petitioners on 12.01.2023, enclosing parent documents and promising to complete the registration. The existence of the arbitration clause in the agreement is not in genuine doubt given the respondent's own written admissions and letters. The disputes raised by the parties are commercial in nature and fall squarely within the scope of the arbitration clause.

7. Learned counsel for the respondent has strongly resisted the petition under Section 11 of the Act by placing reliance upon the recent decision of the Apex Court in *Rajia Begum (supra)*,

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contending that where the existence of the underlying agreement is seriously disputed on allegations of forgery and fraud, the dispute is rendered non-arbitrable at the threshold. However, a close reading of the decision in *Rajia Begum* (supra) indicates that the Supreme Court declined arbitration because the case possessed exceptional features, viz., there was a complete absence of the disputed document from contemporaneous records for nearly nine years; the document did not independently contain a standalone arbitration clause; and proceedings under Section 9 of the Act had already attained finality with a clear *prima facie* finding that the existence of the document was highly doubtful.

8. The factual matrix of the present case is fundamentally distinguishable from *Rajia Begum* (supra). In the case at hand, the respondent himself authored a confirmatory letter dated 12.01.2023 addressed to the first petitioner, explicitly acknowledging the acquisition of the subject property and promising to complete the registration. Furthermore, the respondent has taken contradictory positions across pleadings, claiming in the counter-affidavit to the application filed under Section 9 of the Act

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that the agreement was a creation out of blank signed papers, while baldly denying his signature altogether in the counter-statement filed in the Original Petition. As emphasized by the Supreme Court in *Rajia Begum*, an allegation of fraud or forgery renders a matter non-arbitrable only when it goes to the root of the validity of the arbitration agreement itself in clear cases where a party cannot be said to have entered into it at all. Here, the respondent's written admissions and contradictory stances show that the plea of forgery is merely a thin veil to wriggle out of binding commercial obligations.

9. The appropriate course of action for a case of this nature is governed by the principle laid down by the Supreme Court in *Salson Liquors Private Limited* (supra). The Apex Court categorically held that where issues are raised regarding the genuineness or valid execution of agreements containing an arbitration clause, such contentions can be appropriately taken up and considered as a preliminary issue by the Arbitrator, keeping all contentions of both sides open. In view of the respondent's own written admissions and letters, the existence of the arbitration clause is not in genuine

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doubt. Therefore, following the dictum in *Salson Liquors Private Limited* (supra), the matter is a fit case for the arbitral tribunal to examine the preliminary objections, ensuring that the doors of arbitration are not shut at the threshold on the basis of a bald and afterthought plea of forgery.

10. The Arbitration Original Petition is allowed with the following directions:

(i) Hon'ble Mr.Justice R.Suresh Kumar, a retired judge of this Court, is appointed as the Sole Arbitrator to enter upon the reference and adjudicate the disputes between the parties in terms of the Land Aggregator Agreement dated 06.03.2016.

(ii) The learned Arbitrator is requested to file the disclosure declaration in terms of Section 12 of the Act, before entering upon the reference.

(iii) The seat and venue of the arbitration proceedings shall be Chennai, in accordance with Clause 11 of the Agreement.

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(iv) The arbitration proceedings shall be conducted under the aegis of the Madras High Court Arbitration Centre in accordance with the Madras High Court Arbitration Proceedings Rules, 2017. The arbitral fee and administrative charges shall be governed by the Madras High Court Arbitration Centre (Administrative Cost and Arbitrators' Fees) Rules, 2017, and shall be borne equally by both parties.

(v) All contentions, claims, counterclaims, and defenses on merits are left open to be urged by the respective parties before the learned Arbitrator.

11. To protect the subject matter of the dispute pending the constitution of the arbitral tribunal and the adjudication of interim reliefs, the interim order granted earlier should be continued. Therefore, the interim order granted earlier in O.A.No.528 of 2025 shall continue to remain in force until the Arbitrator decides the application under Section 17 of the Act, which the petitioners are granted liberty to file within a period of thirty days from the date of entering upon the reference.

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12. The respondent is granted liberty to file an application under Section 16 of the Act before the learned Arbitrator to challenge the competence of the tribunal or the validity of the agreement.

The Original Petition and the Original Application are ordered accordingly. There shall be no order as to costs.

(SUSHRUT ARVIND DHARMADHIKARI,CJ)
30.10.2026

Index : Yes
Neutral Citation : Yes
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To

The Assistant Registrar,
Madras High Court Arbitration Centre,
Chennai-600 104.

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