



2026:KER:16312

OP(C) NO. 2962 OF 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

MONDAY, THE 23<sup>RD</sup> DAY OF FEBRUARY 2026 / 4TH PHALGUNA, 1947

OP(C) NO. 2962 OF 2025

CMA(Arb) NO.13 OF 2023 OF I ADDITIONAL COMMERCIAL COURT,

THIRUVANANTHAPURAM

PETITIONER/RESPONDENT:

GOD'S OWN COUNTRY HEALTH RESORTS  
INTERNATIONAL PVT. LTD  
TC 25/1572 (5), 2ND FLOOR,  
AIROLINK TOWER, NANTHANCODE,  
THIRUVANANTHAPURAM  
REPRESENTED BY ITS DIRECTOR,  
BAIJU GOPALAN., PIN - 695033

BY ADVS.  
SRI.C.UNNIKRISHNAN (KOLLAM)  
SRI.D.JAYAKRISHNAN  
SHRI.M.R.RADHAKRISHNAN  
SHRI VIJAYKRISHNAN S. MENON  
SHRI.VIVEK NAIR P.  
SHRI.G.GOWARDHAN DEV G. NAIR  
SHRI.K.S.ARAVIND  
SHRI.V.ASWIN  
SMT.GARGI RAMACHANDRAN  
SMT.NADIYA K.M.  
SHRI.SHIBU S.

RESPONDENT/PETITIONER/APPLICANT:

MARRIOT HOTELS INDIA PVT. LTD  
303/304, 3RD FLOOR,  
HIRANANDANI FULCRUM SAHAR ROAD,  
ANDHERI EAST VILE PARLE (E),



2026:KER:16312

OP(C) NO. 2962 OF 2025

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MUMBA, MAHARASHTRA  
REPRESENTED BY ITS SENIOR DIRECTOR,  
PIN - 400099

BY ADVS.  
SHRI.SANTHOSH MATHEW (SR.)  
SHRI.MATHEW NEVIN THOMAS  
SRI.ARUN THOMAS  
SMT.KARTHIKA MARIA  
SMT.VEENA RAVEENDRAN  
SRI.ANIL SEBASTIAN PULICKEL  
SHRI.SHINTO MATHEW ABRAHAM  
SHRI.KURIAN ANTONY MATHEW  
SHRI.KARTHIK RAJAGOPAL  
SMT.APARNNA S.  
SHRI.NOEL NINAN NINAN  
SHRI.ARUN JOSEPH MATHEW  
SHRI.ADEEN NAZAR  
SHRI.ROHAN MATHEW

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 23.02.2026,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**"C.R."****T.R. RAVI, J.**-----  
O.P.(C). No.2962 of 2025  
-----Dated this the 23<sup>rd</sup> day of February, 2026**JUDGMENT**

The original petition has been filed with the following prayer;

"Call for the records of CMA (Arbitration) 13/2023 before the Commercial Court-2, Thiruvananthapuram (Court of the 1<sup>st</sup> Additional Subordinate Judge, Thiruvananthapuram) and set aside the entire proceedings."

2. The question involved is whether the failure to commence arbitral proceedings within 90 days after the first order was passed in a petition filed under Section 9 of the Arbitration and Conciliation Act, 1996( 'the Act' for short) will result in termination of the entire proceedings. The short facts required as follows:

3. The respondent filed a Section 9 application before the Commercial Court II, Thiruvananthapuram and on 04.05.2023 the first order was issued prohibiting transfer of shares of the petitioner company. On the same day, another



order was issued prohibiting alienation of the property. The contention of the petitioner is that, since even 90 days after the passing of the order no arbitral proceedings were initiated, and since the court has not granted any extension of the period for commencing the proceedings, the entire proceedings have to stop there and cannot be continued any further.

4. Reliance is placed on the judgment of a Division Bench of the Madras High Court in **Archer Power Systems Private Limited V. Kohli Ventures Limited Company (2017 SCC OnLine Mad 36458)** and that of a Division Bench decision of this Court in **M/s.Manosh Elias Constructions Pvt. Ltd. V. Manuel John [Arbitration Appeal No.75/2017 dated 18.01.2018]**. In **Archer (supra)**, the Division Bench of the Madras High Court held that the law is well settled that the arbitral proceedings has to be initiated with 90 days after the initial order and the party who moves the court cannot eternally squat on the interim order obtained without commencing the arbitral proceedings. The Division Bench of this Court in **Manosh Elias (supra)** held that the parties who had succeeded in securing an interim measure of protection before commencement



of the arbitral proceedings cannot be allowed to sit and sleep over the relief and conveniently forget the “proximity contemplated” or “manifestly intended”, arbitral proceedings. The Court further held that if arbitral proceedings are not commenced within a reasonable time of an order under Section 9, the relationship between the order under Section 9 and the arbitral proceedings would stand snapped and the relief allowed to the parties shall cease to be an order made “before” the arbitral proceedings and in contemplation of arbitral proceedings. The court also held that the provisions of Section 9(2) will equally apply even in case of an ad-interim order of conditional order of attachment.

5. The Senior counsel appearing for the respondents on the other hand pointed out to the reliefs prayed for in the original petition and submitted that Section 9(2) does not contemplate the setting aside of the entire proceedings if arbitral proceedings are not initiated within 90 days. The counsel submitted that the agreement between the parties related to the running of a hotel. It is pointed out that, after the order was issued on 04.05.2023, the petitioners started taking steps for re-



branding the hotel on 20.05.2023. The respondent moved the court against these steps and on 03.06.2023, an order of *status quo* was ordered in I.A.No.3/2023. The petitioner thereafter filed I.A.No.6/2023 challenging the maintainability of a Section 9 application. This was followed by O.P.(C) No.1471/2023 seeking a disposal of I.A.No.6/2023. This Court by judgment dated 31.07.2023 directed that I.A.No.6/2023 should be disposed of within 25.08.2023. When the *status quo* order was violated, a contempt application was filed by the respondents. It is stated that the said application is still pending consideration and charge memo has already been issued and a Prosecutor has also been appointed. Against the violation of the injunction, the Commercial Court has also been moved and the said petition is also pending. It is hence submitted that the proceedings under Section 9 did not stop with the first order and it is still continuing in the form of petitions seeking action against violation of the interim order. According to the counsel, the proceedings under different I.As. before the Commercial Court should be treated as extension of the time under Section 9(2). I do not fully agree with the submission that the interim order granted would amount to an



extension of the time granted for initiating arbitral proceedings. However, it would definitely amount to an extension of the interim proceedings which were initiated under Section 9.

6. Section 9 of the Arbitration and Conciliation Act reads thus:

**"9. Interim measures, etc., by Court** - (1) A party may, before or during arbitral proceedings or at any time after the making of the arbitral award but before it is enforced in accordance with section 36, apply to a Court:-

(i) for the appointment of a guardian for a minor or a person of unsound mind for the purposes of arbitral proceedings; or

(ii) for an interim measure of protection in respect of any of the following matters, namely:—

(a) the preservation, interim custody or sale of any goods which are the subject-matter of the arbitration agreement;

(b) securing the amount in dispute in the arbitration;

(c) the detention, preservation or inspection of any property or thing which is the subject-matter of the dispute in arbitration, or as to which any question may arise therein and authorising for any of the aforesaid purposes any person to enter upon any land or building in the possession of any party, or authorising any samples to be taken or any observation to be made, or experiment to be tried, which may be necessary or



expedient for the purpose of obtaining full information or evidence;

(d) interim injunction or the appointment of a receiver;

(e) such other interim measure of protection as may appear to the Court to be just and convenient,

and the Court shall have the same power for making orders as it has for the purpose of, and in relation to, any proceedings before it.

(2) Where, before the commencement of the arbitral proceedings, a Court passes an order for any interim measure of protection under sub-section (1), the arbitral proceedings shall be commenced within a period of ninety days from the date of such order or within such further time as the Court may determine.

(3) Once the arbitral tribunal has been constituted, the Court shall not entertain an application under sub-section (1), unless the Court finds that circumstances exist which may not render the remedy provided under section 17 efficacious."

7. The Senior counsel appearing for the respondents submitted that the Hon'ble Supreme Court in **Amazon.Com NV Investment Holdings LLC V. Future Retail Limited and Others [(2022) 1 SCC 209]** considered the question whether the proceedings regarding the violation of injunction would continue to the Section 9(1) proceedings and held in the affirmative. In paragraph 69, the Hon'ble Supreme



Court held thus:

“Properly so read, the expressions “in relation to” and “any proceedings” would include power to enforce orders that are made under Section 9(1), and are not limited to incidental powers to make interim orders, as was suggested by Mr.Viswanathan. Thus, if an order under Section 9(1) is flouted by any party, proceedings for enforcement of the same are available to the court making such orders under Section 9(1). These powers are, therefore, traceable directly to Section 9(1) of the Act – which then takes us to the Code of Civil Procedure. Thus an order under Order 39 Rule 2-A, in enforcement of an order under Section 9, would also be referable to Section 9(1) of the Arbitration Act.”

8. A reading of Section 9(2) would show that the Statute only says that arbitration proceedings should be commenced within a period of 90 days from the date of an order for any interim measure of protection. Going by the judgment in **Amazon.Com(supra)**, even orders for enforcement of a protection order given under Section 9(1) would continue to be an order under Section 9(1). The statutory provision does not say that arbitral proceedings should be started within 90 days of the first order issued under Section 9(1). A reading of the provision along with the law declared by the Hon'ble Supreme Court in **Amazon.Com (supra)** will necessarily lead us to a



conclusion that what is intended by the Statute is a measure of protection in reality. That is the very reason why the Statute has specifically stated that the time can be extended by the Court. The Statute does not contemplate any limit regarding the above extension. The Court thus can ensure that a real protection has been granted. Any other interpretation will only be doing disservice to the intention behind the statutory provision.

Original petition is devoid of merit and is hence dismissed.

Sd/-

**T.R. RAVI  
JUDGE**

Pn



APPENDIX OF OP(C) NO. 2962 OF 2025

PETITIONER'S EXHIBITS

- Exhibit P1 TRUE COPY OF THE CMA (ARB) 13/2023
- Exhibit P2 TRUE COPY OF THE ORDER DATED 03.06.2023 IN CMA 13/2023
- Exhibit P3 TRUE COPY OF THE ORDER DATED 25.08.2023 IN IA 6/2023 IN CMA (ARB) 13/2023
- Exhibit P4 TRUE COPY OF THE ORDER DATED 06.02.2025 IN WPC FILING NO. 4520/2025

RESPONDENT'S EXHIBITS

- Exhibit R1 TRUE COPY OF BOARD RESOLUTION DATED 20.02.2025
- Exhibit R2 COPY OF THE JUDGEMENT DATED 31.07.2023 IN O.P. (C) NO. 1471 OF 2023
- Exhibit R3 COPY OF THE ORDER DATED 21.12.2023 PASSED IN CONTEMPT CASE (C) NO. 1945 OF 2023
- Exhibit R4 COPY OF THE ORDER DATED 05.01.2024 PASSED IN THE CONTEMPT PETITION
- Exhibit R5 COPY OF THE ORDER DATED 04.05.2023 IN I.A. NO. 01/2023 (TRANSFER OF SHAREHOLDING)
- Exhibit R6 COPY OF THE ORDER DATED 04.05.2023 IN I.A, NO. 02/2023 (ALIENATION OF PROPERTY)
- Exhibit R7 TRUE COPY OF THE OPERATING AGREEMENT DATED 11.11.2012
- Exhibit R8 COPIES OF THE PHOTOGRAPHS SHOWING THE ACTIONS OF THE PETITIONER IN REMOVING THE SIGNS OF THE RESPONDENT FROM THE SCHEDULE PROPERTY IN JUNE 2023
- Exhibit R9 TRUE COPY OF THE NEWS ARTICLE ALONG WITH THE TRANSLATION



- Exhibit R10 COPY OF THE I.A. NO. 07 /2023 DATED 08.06.2023 (DISOBEDIENCE APPLICATION) FILED BY THE RESPONDENT
- Exhibit R11 COPY OF THE ORDER DATED 25.08.2023 PASSED BY THE COMMERCIAL COURT IN I.A. NO. 06/2023
- Exhibit R12 COPY OF THE ORDER DATED 20.11.2023 PASSED BY THIS HONORABLE COURT IN OP(C) 1874/2023
- Exhibit R13 COPY OF THE I.A. NO. 11/2023 (WITHOUT ANNEXURES) IN CMA (ARB.) NO. 13/2023 DATED 02.11.2023 (PERJURY APPLICATION) SEEKING PROSECUTION OF THE PETITIONER FOR PERJURY
- Exhibit R14 COPY OF THE ORDER DATED 05.12.2025 IN THE SECTION 9 PROCEEDINGS
- Exhibit R15 THE PHOTOGRAPHS OF THE SCHEDULE PROPERTY TAKEN ON 19.08.2023 DEPICTING THE SIGNBOARD OF GOKULAM GRAND
- Exhibit R16 COPY OF THE INAUGURATION ANNOUNCEMENT OF THE HOTEL DATED 15.09.2023
- Exhibit R17 COPY OF THE CONTEMPT PETITION (WITHOUT ANNEXURES) FILED BY THE RESPONDENT
- Exhibit R18 THE AFFIDAVIT OF THE PETITIONER DATED 12.11.2023
- Exhibit R19 COPY OF TH ADDITIONAL AFFIDAVIT FILED BY THE PETITIONER THROUGH ITS DIRECTOR MR. BAIJU GOPALAN DATED 31.03.2024
- Exhibit R20 COPY OF THE REPLY AFFIDAVIT FILED BY THE RESPONDENT
- Exhibit R21 COPY OF THE ORDER DATED 19.03.2025 IN CONTEMPT CASE (CJ NO. 1945 OF 2023