



IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

&

HON'BLE SHRI JUSTICE ALOK AWASTHI

ARBITRATION APPEAL No. 332 of 2025

*M/S MPM HOMES DEVELOPERS LLT THROUGH ITS PARTNER
SMT. ANNAPURNA MAHESHWARI AND OTHERS*

Versus

*M/S AMARJOT DEVELOPERS AND FINANCE PVT. LTD THROUGH
AUTHORIZED SIGNATORY VIVEK CHUGH*

.....
Appearance:

Shri Veer Kumar Jain - Senior Advocate assisted by Shri Praveen

Kachole - Advocate for the appellants.

Shri Ravindra Singh Chhabra - Senior Advocate assisted by Shri

Aman Arora - Advocate for the respondent on Caveat.

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Reserved on : 09.04.2026

Pronounced on : 30.04.2026
.....

ORDER

Per. Justice Alok Awasthi

1. The present arbitration appeal is filed under Section 37(1)(b) of the Arbitration and Conciliation Act, 1996 (hereinafter referred as "Act, 1996") read with Section 13(1A) of the Commercial Courts Act, 2015, being aggrieved by the final order dated 10.11.2025 passed by the learned Commercial Court, Indore in MJC AV No.50/2025, whereby the respondent's application under Section 9 of the Act, 1996 has been allowed



and interim measures have been passed against the appellants.

THE FACTS OF THE CASE, IN SHORT, ARE AS UNDER :-

2. The appellant No.1 is a Limited Liability Partnership and the present appeal has been filed through its authorized representative, Mr. Ravi Verma, pursuant to a Board Resolution dated 20.04.2024. Appellant Nos.2 & 3 are partners of appellant No.1. The respondent is an incorporated company and had purchased agricultural land situated at Patwari Halka No.93, Village Bicholi Hapsi, Tehsil and District Indore, admeasuring 5.193 hectares, through a registered sale deed dated 03.05.2007. Owing to certain clerical errors in the original sale deed, the respondent executed an amendment deed dated 02.01.2016 and an exchange deed dated 06.02.2016, and thereafter got the land mutated in its name in the revenue records.

3. The respondent represented to the appellants that it was the absolute owner and in exclusive possession of various parcels of land (hereinafter referred to as the "subject land") and offered to sell the same. It is the case of the appellants that the respondent suppressed the material fact that the subject land was under dispute and had been claimed by the Government as Government land on the basis of a Misal Bandobast entry of the year 1925–1926. Relying on the representations of the respondent, the appellants purchased the subject land through two registered sale deeds dated 26.04.2019. The total sale consideration was Rs.9,92,20,000/-, out of which a substantial amount was paid through RTGS / online mode and the remaining amount was paid by way of two cheques. The sale deeds record receipt of the entire consideration and upon execution thereof, possession of the subject



land was handed over to the appellants. The land was also mutated in their favour and necessary development permissions were obtained.

4. It is not in dispute that the respondent did not present the cheques for encashment and no case of dishonour of cheques has been set up by the respondent. After a lapse of about four and a half years, the respondent instituted a Civil Suit on 14.10.2023 seeking declaration of the sale deeds as void, along with consequential reliefs of possession and injunction. The appellants filed an application under Section 8 of the Act, 1996 and the Civil Court, vide order dated 25.04.2025, referred the parties to arbitration. Subsequently, disputes arose between the parties regarding the appointment of the arbitrator, including alleged deviation by the respondent from the agreed arbitration clause. Meanwhile, the respondent filed an application under Section 9 of the Act seeking interim measures before the Commercial Court.

5. The appellants opposed the said application, *inter alia*, on the ground that the claims of the respondent were barred by limitation, contending that the cause of action, if any, arose in November 2019. The Commercial Court, however, vide order dated 10.11.2025, allowed the application under Section 9 of the Act, 1996 and granted interim protection in favour of the respondent.

6. Aggrieved by the said order granting interim measures, the appellants have preferred the present arbitration appeal before this Court.

SUBMISSIONS OF APPELLANTS

7. Learned Senior Counsel for the appellants argued that the



Commercial Court committed a grave error of law by failing to consider the law laid down by the Hon'ble Supreme Court in the case of *Dahiben v. Arvind Kalyanji Bhasusali, (2020) 7 SCC 366*. The Apex Court has explicitly affirmed that the non-payment of a portion of the sale consideration does not render a registered sale deed void, nor does it provide a valid basis for its cancellation. Title passes upon registration; therefore, the respondent's remedy, if any, lies in a suit for recovery of money, not in seeking an injunction against the lawful owner.

8. Learned Senior Counsel for the appellants submits that the Commercial Court, by granting an interim injunction, has virtually annulled a registered instrument at an interlocutory stage. This exceeds the limited protective scope of Section 9 of the Act, 1996. It is a settled principle that no interim injunction can be granted to restrain the lawful use of property by a *bona fide* purchaser once title has passed via a registered deed. It is an admitted fact between the parties that the sale deed dated 26.04.2019 was validly executed. The respondent acknowledged receipt of the sale consideration within the recitals of the deed and voluntarily transferred physical possession to the appellants. There are no allegations of fraud, misrepresentation, or coercion. Having inducted the appellants into possession, the respondent cannot now seek to stall development through interim measures.

9. He also submits that the respondent acted with an ulterior motive by failing to present the cheques for collection within their validity period. Even in cases of cheque dishonor, the validity of a registered sale deed remains



intact. Here, the respondent is seeking advantage of its own omission to stall the appellants' rights. The purported dispute regarding the balance consideration was raised for the first time in year 2023, more than three years after the execution of the deed. Under Article 59 of the Schedule to the Limitation Act, 1963, any relief for the cancellation of an instrument is barred by time after three years. Since the final relief is barred by limitation, no interim relief in aid of such a final relief could have been legally granted.

9. The learned Commercial Court erred in relying upon the decision in the case of *Shobhna Sharma v. Sawariya Realties, Pratap Talkies Parisar* passed in *Misc. Appeal No. 2636/2024* by this Court, which pertained to the dishonor of cheques. In the present case, there was no presentation for encashment at all. The Court's finding in paragraph 19 that the sale was "contingent" upon the cheques being honored, runs contrary to the express recitals of the deed and the statutory provisions of the Transfer of Property Act, 1882 (in short "T.P. Act, 1882"). Under Section 41(h) of the Specific Relief Act, an injunction must be refused when an equally efficacious remedy is available. The respondent has already moved under Section 11 of the Act, 1996 for the appointment of an arbitrator. Once an Arbitral Tribunal is constituted, the respondent has the remedy to seek interim measures under Section 17. The learned Commercial Court failed to consider that the respondent has shown no urgency in the Section 11 of the Act, 1996 proceedings, highlighting the lack of "irreparable injury."

10. The dispute is, at best, a quantifiable monetary claim. The learned Commercial Court, after observing in paragraph 18 that the dispute is purely



over the non-payment of consideration, erred in passing a "blanket injunction" against ongoing development. By restraining the appellants from enjoying their property, the Court below has caused an irreversible loss that outweighs any inconvenience to the respondent, especially when the appellants offered to provide security to safeguard the respondent's monetary interests.

11. In view of the above, learned Senior Counsel for the appellants submits that the impugned order is per incuriam, lacks a *prima facie* case and ignores the balance of convenience. It is, therefore, prayed that the interim measures imposed against the appellants be set aside to prevent a miscarriage of justice.

SUBMISSIONS OF RESPONDENTS

12. On the contrary, learned Senior Counsel has vehemently opposed the prayer and submitted that the learned Court below has passed the impugned order by appreciating each and every aspect of the case. He has also contended that the grounds raised by the appellant are beyond the limited scope of Section 9 of the Act, 1996 and Section 37 of the Act as the same are requested to be considered and appreciated in the arbitral proceedings to be conducted before the Arbitrator. He has further argued that in para 2 of the sale deed in question, it has been mentioned that after encashment of the advance cheques, the registry will be treated as valid registry.

13. To bolster his submissions, he has heavily relied upon the cases *Dalpat Singh Naruka Vs. Karuna Bansal, (2022) 15 SCC 77, Dalpat Kumar*



Vs. Prahlad Singh, AIR 1993 SC 276, Adhunik Steel Ltd. Vs. Orissa Manganese and Minerals Private Limited, (2007) 7 SCC 125, Essar House (P) Ltd. Vs. Arcelor Mittal Nippon Steel India Ltd., 2022 SCC OnLine SC 1219.

APPRECIATION & CONCLUSION :-

14. This is a case where petitioner is challenging the order dated 10.11.2025 passed by the Commercial Court, Indore and there are following questions arise for determination as follows :-

- (i) Whether the learned Commercial Court exceeded its jurisdiction under Section 9 of the Arbitration and Conciliation Act, 1996 by granting relief that effectively nullifies or suspends a registered sale deed at an interlocutory stage ?
- (ii) Whether the respondent's claim for cancellation of the sale deeds is barred by limitation under Article 59 of the Limitation Act, 1963 ?
- (iii) Whether non-payment of part of the sale consideration affects the validity of a registered sale deed ?

15. Further, the interim relief granted by the learned Commercial Court is reproduced below:-

*"Thus, this Court feels that the application filed by applicant u/s. 9 of the Arbitration and Conciliation Act, 1996 deserves to be allowed and is hereby **allowed**. The non-applicants are restrained from alienating the disputed land, as mentioned in sale deed dt. 26.04.2019 and creating any third party interest over the said land and from changing the nature of the said land by any other person. In anticipation that the arbitral*



proceedings would commence within period of 90 days from today as per section 9(2) of the Act, 1996, it is made clear that at present, the interim relief as mentioned hereinabove is granted for a period of 90 days and the parties are free to approach this Court, in case any occasion arises."

16. Before proceeding further for examining the facts of the case to answer the above-mentioned questions, it is pertinent to reproduce Section 9 of the Act, 1996 which is as follows:-

"9. Interim measures, etc., by Court. -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.]"

17. To determine the issue that non-payment of part of the total sale consideration affects the validity of a registered sale deed, Section 54 of the T.P. Act, 1882 is worth to be quoted here :-

"54. "Sale" defined.—

"Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised.

Sale how made.—

Such transfer, in the case of tangible immovable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

In the case of tangible immovable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property.

Delivery of tangible immovable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale.—

A contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property."



18. Although, in para 2 of the sale deed dated 26.04.2019, it is mentioned that "इस प्रकार विक्रेतापक्ष को क्रेतापक्ष से विक्रय प्रतिफल की संपूर्ण रकम उपरोक्तानुसार प्राप्त हो गई होकर अब विक्रेतापक्ष को क्रेतापक्ष से विक्रय प्रतिफल पेटे कोई राशि लेना शेष नहीं है, जिसकी अभिस्वीकृति विक्रेतापक्ष इस विक्रय पत्र द्वारा पुन- स्वीकार करते हैं उपरोक्त वर्णित चेक्स आदरित होने पर ही यह विक्रय पत्र वैध माना जावेगा" but here, it is noteworthy that the cheques in question were never presented before the bank for encashment. It was incumbent upon the seller to present the said cheques for encashment. Had the cheques been duly presented and subsequently dishonoured, a statutory cause of action to initiate proceedings against the appellants would have arisen under the provisions of the Negotiable Instruments Act, 1881. However, the submission advanced on behalf of the appellant that the cheques were not presented for encashment solely on account of an alleged oral instruction received from the respondent does not inspire confidence and appears inherently improbable in the facts and circumstances of the case.

19. In the present case, as per Section 54 of T.P. Act, 1882 and under the provisions of the Registration Act, 1908, part payment of consideration is legally sufficient for execution and registration of a sale deed, and non-payment of the balance does not invalidate the sale. Section 54 of the T.P. Act, 1882 defines a sale as a transfer of ownership in exchange for a price paid, promised, or part-paid and part-promised, thereby making it clear that full payment is not a pre-condition and that once a sale deed is executed and registered, the transaction is legally complete and title passes to the purchaser, while the Registration Act merely requires execution by



competent parties, proper stamping, and registration before the Sub-Registrar without mandating proof of full payment or empowering the authority to adjudicate payment disputes, and therefore a sale deed cannot be refused registration on the ground of unpaid consideration.

20. As a result thereof, even if part of the consideration remains unpaid or cheques are not encashed, ownership validly transfers to the buyer, and the seller's remedy lies not in seeking cancellation of the registered instrument but in pursuing recovery of the balance amount or enforcing contractual rights, a position affirmed by the Apex Court in the case of *Dahiben (supra)*, which held that non-payment of consideration does not render a registered sale deed void and that title passes upon execution and registration, making any dispute in such cases essentially a monetary claim rather than one affecting title.

21. So far as the question with regard to grant of interim relief by entertaining the application under Section 9 of the Act, 1996 is concerned, if such proceedings are initiated in the near future the same will not be concluded in the next couple of years. In compliance with this interim order, the appellants will not be in a position to take action for alienating the property and to change the nature of the property in question. This can't be a scope of Section 9 of the Act, 1996. Even if this respondent has a good *prima facie* case in the arbitration proceedings, at the most the compensation, loss of profit, damage etc. could be claimed for the wrong action of the appellant.

22. It is trite that as per Section 9(3) of the Act, 1996 once the arbitral



tribunal has been constituted, the Court shall not entertain an application under Section 9(1) of the Act, 1996 unless the Court finds that the circumstances exist which may not render the remedy provided under Section 17 of the Act efficacious. Recently, the Supreme Court in the case of *Arcelor Mittal Nippon Steel India Ltd. vs. Essar Bulk Terminal Ltd.* reported in *2022 (1) SCC 712* has dealt with the quandary over interplay of Section 9 and Section 17 of the Act, 1996 and has answered this question whether the Court can entertain an application for interim measure after arbitral tribunal has been constituted. The Apex Court while dealing with the said case has held that Section 9(3) of the Act, 1996 has two limbs, the first limb prohibits an application under Section 9(1) from being entertained once an arbitral tribunal has been constituted. The second limb carves out an exception to that prohibition, if the Court finds that circumstances exist, which may not render the remedy provided under Section 17 of the Act, 1996 efficacious. As per Section 17 of the Act, 1996 the arbitral tribunal has the same power to grant interim relief as the Court and thus, remedy under Section 17 is as efficacious as the remedy under Section 9(1) of the Act, 1996.

23. In the present case, it is apparent from the record that the respondent had approached the trial Court on 14.10.2023, by filing an application under Section 9 of the Act, 1996 praying for the interim relief for maintaining the status quo. Taking cognizance upon the said application, the learned trial Court by its application of mind and by considering the facts of the case has ordered that *"the non-applicants are restrained from alienating*



the disputed land, as mentioned in sale deed dt. 26.04.2019 and creating any third party interest over the said land and from changing the nature of the said land by any other person. In anticipation that the arbitral proceedings would commence within period of 90 days from today as per Section 9(2) of the Act, 1996, it is made clear that at present, the interim relief as mentioned hereinabove is granted for a period of 90 days and the parties are free to approach this Court, in case any occasion arises." The said fact clearly shows that the learned trial Court had applied its mind and had entertained the application filed by the respondent.

24. The respondent has filed an application under Section 9 of the Act which was entertained by the learned trial Court and granted interim order in favour of the respondents. This fact shows that the learned trial Court before constitution of arbitral tribunal had entertained the respondent's application. Had it been the case where the parties have summoned only it could not have been observed that the learned trial Court had applied its mind therefore, this Court is of the view that the respondent did not had any efficacious remedy before the constitution of the arbitral tribunal and had rightly approached the learned trial Court seeking an interim relief by filing an application under Section 9 of the Act.

25. It would be relevant to mention that an application A.C. No. 108/2025 for appointment of arbitrator under Section 11 of the Act, 1996 was pending during this case filed by the appellant, the same has been disposed of by order dated 01.04.2026 by appointing arbitrator.

26. As regards the issue whether the respondent's claim seeking



cancellation of the sale deeds is barred by limitation under Article 59 of the Limitation Act, 1963, it is borne out from the record that a civil suit has been instituted before the learned Trial Court on 14.10.2023 praying for a declaration that the impugned sale deeds are void, along with consequential reliefs of possession and permanent injunction. The said question, being a mixed question of law and fact, necessarily entails adjudication upon appreciation of pleadings and evidence on record. Accordingly, it would be apposite for the learned Trial Court to examine and determine the same in accordance with law while considering all facts and attending circumstances of the case.

27. This Court is also of the opinion that the learned trial Court has rightly exercised its jurisdiction under Section 9 of the Act, 1996 because on or before filing the application, neither arbitral tribunal proceedings were initiated nor arbitrator was appointed or approached to settle the dispute, howsoever, it is also apparent from the record that the appointment of arbitrator is also challenged before this Court. The Hon'ble Apex Court in the case of *Arcelor Mittal (supra)* in paragraph No. 84, 90 and 91 has held that:

“84. It is now well settled that the expression “entertain” means to consider by application of mind to the issues raised. The Court entertains a case when it takes a matter up for consideration. The process of consideration could continue till the pronouncement of judgment as argued by Khambata. Once an Arbitral Tribunal is constituted the Court cannot take up an application under Section 9 for consideration, unless the remedy under Section 17 is inefficacious. However, once an application is entertained in the sense it is taken up for consideration, and the Court has applied its mind to the Court can certainly proceed to adjudicate the application.



90. It could, therefore, never have been the legislative intent that even after an application under Section 9 is finally heard relief would have to be declined and the parties be remitted to their remedy under Section 17.

91. When an application has already been taken up for consideration and is in the process of consideration or has already been considered, the question of examining whether remedy under Section 17 is efficacious or not would not arise. The requirement to conduct the exercise arises only when the application is being entertained and/or taken up for consideration. As observed above, there could be numerous reasons which render the remedy under Section 17 inefficacious. To cite an example, the different Arbitrators constituting an Arbitral Tribunal could be located at far away places and not in a position to assemble immediately. In such a case an application for urgent interim relief may have to be entertained by the Court under Section 9(1)”

28. In light of the aforesaid facts and dictum of Hon'ble Apex Court, we are of the view that the learned trial Court was right in exercising its jurisdiction under Section 9 of the Act, 1996 considering the fact that the sole arbitrator was appointed and arbitral tribunal was constituted after the learned trial Court had applied its mind and had entertained the application filed under Section 9 and at that time, the respondent did not had any other efficacious remedy. Similarly redirecting the respondent to file an interim application seeking the same relief as sought under Section 9 of the Act, 1996 before the arbitrator under Section 17 of the Act, 1996 would defeat the cause of justice.

29. Vide impugned order dated 10.11.2025, interim relief was granted in favour of respondent, which was valid for a period of 90 days from the date of passing of the impugned order. At present, the purchaser/appellants have already taken the permission of construction of the building from



concerned department for limited period, but it is made clear that the appellants shall not alienate the property and not create any third party right in the property in question.

30. It is also made clear that if the party have any grievance with regard to the recovery of the balance amount, they shall be at liberty to approach the competent Court if so advised.

31. Accordingly, this appeal being bereft of merits and substance is hereby, *dismissed*. No order as to costs.

32. The orders of interim injunction are affirmed. The same shall continue till the pendency of arbitration proceedings.

(VIJAY KUMAR SHUKLA)
JUDGE

(ALOK AWASTHI)
JUDGE

Vindesh