




HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Miscellaneous Appeal No. 2724/2025

1. M/s Srasti Liquor Bottling LLP, (LLPIN-AAT-9270) Through Its Designated Partner, Shri Arun Vashishtha, Having Its Registered Office At 604-605, Vaibhav Shine Multiplex, Vaishali Nagar, Jaipur-302021
2. Shri Arun S/o Shri Kam Kishore, R/o 22, Amar Nagar, (RFC Colony,) Vaishali Nagar, Jaipur.
3. Mrs. Reeva W/o Shri Arun, R/o 22, Amer Nagar (RFC Colony), Vaishali Nagar, Jaipur., Through Power Of Attorney Holder Rafat Ali, S/o Mobin Ali, Aged About 45 Years, Residing At S-1, Ganesh Apartment, Indraprasth Colony, Near Ganesh Ji Ka Mandir, Vaishali Nagar, Jaipur, Rajasthan, Jaipur-302021

----Appellants

Versus

Mrs. Sita Rajesh Varma W/o Shri Rajesh Shamlal Varma, R/o 57-58, Mahatma Gandhi Nagar, DCM Ajmer Road, Jaipur.

----Respondent

For Appellant(s)	:	Mr. Kamlakar Sharma, Senior Counsel assisted by Mr. Prakul Khurana, Adv. Mr. Rajat Sharma, Adv. Mr. Saksham Pandey and Mr. Shubhendra Singh, Adv.
For Respondent(s)	:	Mr. Amol Vyas, Adv. with Mr. Bajrang Singh Jaitawat, Adv. and Mr. Abhishek Purohit, Adv.

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SHUBHA MEHTA

Judgment

Date of conclusion of arguments	:	<u>20/04/2026</u>
Date on which judgment was reserved	:	<u>20/04/2026</u>
Whether the full judgment or only the operative part is pronounced	:	<u>Full judgment</u>
Date of pronouncement	:	<u>30th/04/2026</u>



REPORTABLE
(Per Hon'ble The Acting Chief Justice)
Facts of the Case

1. The brief facts which are required to be taken into consideration for adjudication of this appeal are that the appellant No.2 and the respondent entered into a Limited Liability Partnership (hereinafter referred to as 'LLP') on 26.09.2020 and set up a LLP with registered office at Jaipur. It was duly registered under the Limited Liability Partnership Act, 2008 (hereinafter referred to as the 'Act of 2008'). A supplementary deed of the LLP was executed on 15.03.2022 whereby appellant No.3 was also inducted as a partner.

2. Rajasthan Liquor Limited (hereinafter referred to as 'RLL') offered to be impleaded as a partner in the firm in the year 2023 and it is stated that the appellants No.2 and 3 as well as respondent mutually agreed to induct the RLL in the LLP. For the purpose of induction, RLL entered into an MoU with the LLP and a sum of rupees one crore was advanced by RLL in multiple tranches. An amount of rupees three crore was to be considered as the induction amount and 30% stake in the LLP was to be acquired by RLL.

3. From the collective shares of appellants No.2 and 3, 16.5% of their stake was to be transferred to the RLL and the respondent was also to transfer 13.5% of her share to RLL and at the outset Rs.45 lakhs was given to the appellants and another Rs.45 lakhs were deposited in the account of respondent.

4. However, before RLL could be inducted, certain disputes arose between appellants No.1, 2 and the Respondent. So far as





the respondent is concerned, she was insisting on certain conditions to be laid down as binding on the RLL before she was to be inducted, whereas the appellants No.2 and 3 were of the view that no further conditions be laid down.

5. In the circumstances the appellants 2 and 3 decided to conduct a meeting in terms of Clause 38 of the deed of the LLP and a notice was sent to the respondent to attend the said meeting. However, the respondent has alleged that she had informed that it would not be possible to attend the meeting on 12.10.2024. The Appellants conducted the meeting in absence of the Respondent. It was noted during the meeting that RLL had issued a notice demanding legal action against the partnership firm including criminal action within 48 hours if they were not inducted in the LLP.

6. Since the Appellants found the amount had already been received from RLL and Respondent was not agreeing to induct RLL as a partner, they were left with no other alternative but to oust the Respondent from the LLP and accordingly they took a decision to oust the Respondent from the LLP and return her share.

7. A letter was also sent to the ROC with Forms 3 and 4 in respect to cessation of respondent from the LLP.

8. Aggrieved of the said action, the respondent filed application under Section 9 of the Act of 1996. The learned commercial court heard and passed an interim order on 02.06.2025 directing as under:

"127. अतः प्रार्थी की ओर से अधिनियम की धारा 9 के तहत प्रस्तुत किया गया हस्तगत प्रार्थना पत्र स्वीकार किया जाकर अप्रार्थी संख्या 1 एलएलपी की दिनांक 12.10.2024 को





आयोजित की गई मीटिंग में पारित किये गये प्रस्तावों एवं ऐसे प्रस्तावों के क्रम में दिनांक 13.10.2024 को अप्रार्थी संख्या 1 व 2 के मध्य निष्पादित किये गये पूरक करार की क्रियान्विति को प्रस्तावित मध्यस्थता कार्यवाही में विद्वान मध्यस्थता अधिकरण द्वारा अंतिम अवार्ड पारित किये जाने तक स्थगित किया जाता है।

128. अर्थात् प्रार्थी का अप्रार्थी संख्या 1 एलएलपी से किया गया निष्कासन प्रस्तावित मध्यस्थता कार्यवाही में विद्वान मध्यस्थता अधिकरण द्वारा अंतिम अवार्ड पारित किये जाने तक स्थगित रहेगा तथा उभयपक्ष के मध्य दिनांक 18.08.2023 को निष्पादित एवं प्रमाणित हुआ पूरक करार प्रभावी रहेगा।

129. उपरोक्त अवधि के दौरान उभयपक्ष मूल करार दिनांकित 26.09.2020 एवं पूरक करार दिनांकित 18.08.2023 में तय पाई गई शर्तों के अनुसार अप्रार्थी संख्या 1 एलएलपी का संचालन सुनिश्चित करेंगे।

130. हालांकि ऐसा सम्भव नहीं होने की सूरत में उभयपक्ष मध्यस्थता कार्यवाही के दौरान अप्रार्थी संख्या 1 एलएलपी के विघटन की भी मांग करने के लिए स्वतंत्र होंगे।

131. प्रस्तावित मध्यस्थता कार्यवाही में विद्वान मध्यस्थता अधिकरण द्वारा अंतिम अवार्ड पारित किये जाने तक अप्रार्थी संख्या 1 एलएलपी के सभी बैंक खातों का संचालन पूरक करार दिनांक 18.08.2023 में तय पाई गई शर्तों के अनुसार सभी तीनों Designated Partners द्वारा संयुक्त रूप से किया जावेगा।

132. अप्रार्थी संख्या 2 व 3 के साथ-साथ स्वयं प्रार्थी को भी प्रस्तावित मध्यस्थता कार्यवाही में विद्वान मध्यस्थता अधिकरण द्वारा अंतिम अवार्ड पारित किये जाने तक पाबन्द किया जाता है कि आपसी सहमति के बिना अप्रार्थी संख्या 1 एलएलपी की किसी भी अचल सम्पत्ति को किसी तृतीय पक्षकार को अन्तरित/सुपुर्द ना करें, ना ही किसी तृतीय पक्षकार का कोई हित सृजित करें तथा तीनों भागीदारान की सहमति के बिना किसी अन्य नये भागीदार को अप्रार्थी संख्या 1 एलएलपी में शामिल ना करें।

133. यहां यह स्पष्ट किया जाता है कि प्रार्थी को अप्रार्थी संख्या 1 एलएलपी से निष्काषित किये जाने के बाद अप्रार्थी संख्या 2 व 3 द्वारा अप्रार्थी संख्या 1 एलएलपी में निवेश किये गये अतिरिक्त पूंजी निवेश को विद्वा किया जा सकेगा या आपसी सहमति से प्रार्थी द्वारा भी समान राशि का अतिरिक्त पूंजी निवेश किया जा सकेगा या अप्रार्थी संख्या 2 व 3 द्वारा किये गये अतिरिक्त पूंजी निवेश की राशि को आपसी सहमति से उचित ब्याज दर पर Unsecured Loan के रूप में अप्रार्थी संख्या 1 एलएलपी में यथावत रखा जा सकेगा।

134. अप्रार्थी संख्या 2 व 3 को निर्देशित किया जाता है कि आज से सात दिवस के अन्दर अप्रार्थी संख्या 1 एलएलपी का दिनांक 12.10.2024 से आज दिनांक तक का सम्पूर्ण लेखे-जोखे की एक प्रमाणित प्रति न्यायालय में प्रस्तुत करें ताकि उसका मध्यस्थ कार्यवाही के दौरान आवश्यकतानुसार उपयोग किया जा सके।





135. प्रार्थी एवं अप्रार्थी संख्या 2 व 3 को निर्देशित किया जाता है कि आज से सात दिवस के अन्दर अप्रार्थी संख्या 1 एलएलपी की मीटिंग आयोजित करें तथा उस मीटिंग में न्यायालय के इस आदेश के क्रम में सभी जरूरी प्रस्ताव पारित करते हुए आगामी तीन दिवस के अन्दर रजिस्ट्रार ऑफ कम्पनीज के यहां इस ओदश में अभिलिखित किये गये निष्कर्ष के अनुसार संशोधित फार्म संख्या 3 व 4 प्रस्तुत करें।

136. उभयपक्ष हस्तगत कार्यवाही का खर्चा मध्यस्थता कार्यवाही में पारित होने वाले अवार्ड के अनुसार वहन करेंगे।

137. यहां फिर से यह स्पष्ट किया जाता है कि इस आदेश में व्यक्त की गई प्रथमदृष्टया राय का एवं अभिलिखित किये गये निष्कर्ष का प्रस्तावित मध्यस्थता कार्यवाही के दौरान लेशमात्र भी कोई प्रभाव नहीं होगा तथा विद्वान मध्यस्थता अधिकरण द्वारा इस आदेश में व्यक्त की गई प्रथमदृष्टया राय एवं अभिलिखित किये गये प्रथमदृष्टया निष्कर्षों से लेशमात्र भी प्रभावित हुये बिना उभयपक्ष की ओर से अपने समक्ष पेश की जाने वाली साक्ष्य के आधार पर स्वतंत्र रूप से गुणावगुण पर निष्कर्ष अभिलिखित किया जावेगा।

138. आदेश आज दिनांक 02.06.2025 को लिखाया जाकर खुले न्यायालय में सुनाया गया। "

9. Feeling aggrieved, the appellants have preferred this appeal under Section 37 of the Act of 1996.

SUBMISSIONS BY THE PARTIES

10. Learned counsel for the appellants has submitted that the action and stringent approach of the Respondent has not only jeopardized the LLP's relationship with an important business partner but also exposed the firm to legal risks, including charges of fraud, misrepresentation and criminal breach of trust. Learned counsel points out that despite being notified on 14.09.2024 of a meeting being scheduled on 18.09.2024, where induction of RLL as a partner was on the agenda, the Respondent chose to abstain from participating in the meeting directly or via any representative.

11. Learned counsel for the Appellants further submits that from various inquiries received by the Appellant from the market, it





came to light that her husband and representative, Mr. Rajesh Verma misrepresented himself as the owner of the LLP and its factory, attempting to sell the factory without the knowledge or consent of the Appellant.

12. Learned counsel further submitted that the Respondent deceitfully transferred an amount of Rs 2.4 crore to another entity, i.e., Srasti Liquik Transit LLP where Appellant No. 2 was a partner and subsequently misappropriated the funds by transferring the same amount to her personal account without consequence.

13. He further submits that sans any consultation, the Respondent had written to the LLP's bank making false accusation which resulted in freezing of the LLP's bank account.

14. Learned counsel further submits that the Respondent's son (Prince Rajesh Varma), was engaging in fraudulent activities, including manipulating the LLP's stock registers. It is pointed out that such misconduct was uncovered and discussed in a partners meeting held on 26.09.2024, wherein it was unanimously resolved to remove him from the position of CEO.

15. Learned counsel further submits that during this meeting, the Respondent's husband (Rajesh Varma) threatened to shut down the factory if his demands and the retention of the ousted CEO were not accepted. Learned counsel submits even subsequent to his removal, the Rajesh Varma refused to return the LLP's confidential information, including sensitive operational data, which was an attempt to obstruct the LLP's smooth functioning.

16. Learned counsel for the Appellants points out that owing to such acts of the Respondent, it was deemed appropriate to refund





the money received from RLL with interest and to formalize such a resolution, an MoU was drafted to settle the matter amicably, which was refused by the Respondent. Learned counsel relies on this to show the intention to commit fraud on part of the Respondent and that her actions also fall within the definition of 'Criminal Breach of Trust' under Section 316 of the Bharatiya Nyaya Sanhita, 2023.

17. Learned counsel further submits that post her ouster, vide meeting dated 12.10.2024, the Respondent, instead of adhering to the arbitration mechanism, chose to register an FIR against non-appellant Nos. 2 and 3 on 14.10.2024 in order to harass them and the same is riddled with false allegations (and this fact was concealed before the learned commercial court which also failed to take cognizance of the same) and vide a final report dated 30.07.2025, the police noted the allegation of RRL's induction without the Respondent's consent to be false, the supplementary deed relied upon by respondent was never executed nor accepted by ROC and that the issue of wrongful expulsion is a civil dispute falling within the Act of 1996.

18. Learned counsel also points out that the learned commercial court erroneously concluded that the MoU was not in force, rather in pursuance of the same RLL transferred Rs 3 crore (from which Rs 45 lakh was withdrawn by the Respondent) to Appellant No. 1's bank account as consideration for the proposed 30% stake in the LLP.

19. Learned counsel further submits that the learned commercial court failed to address the central issue of misappropriation of





funds and also incorrectly mentioned the date of withdrawal of Rs 45 lakh as being done on 25.01.2023 (as mentioned in the minutes of the meeting dated 12.10.2024 owing to clerical error) but was done on 25.01.2024. Learned counsel also points out that the learned commercial court exceeded its jurisdiction by going beyond the pleadings to grant reliefs not prayed for in the Respondent's application filed under Section 9 of the Act of 1996.

20. Learned counsel for the Appellants submits that in response to the Section 9 application filed by the Respondent, the Appellants contended that there were compelling circumstances created by the Respondent's conduct which necessitated her expulsion from the LLP and that the same were in accordance with law and the terms of the LLP agreement.

21. Learned counsel submits that as the Respondent failed to initiate arbitration proceedings within the mandatory period stipulated under Section 9(2) of the Act of 1996 (90 days from the date of ad-interim relief, i.e., 22.03.2025 or reasonable extended period), the Appellants were constrained to file an appropriate application before this Court seeking dismissal of the Section 9 application as non-maintainable (owing to being delayed by 120 days) and therefore the interim relief is rendered automatically inoperative.

22. Learned counsel submits the learned commercial court wrongly dismissed the Appellants material on record and despite the delay in filing the application, proceeded to wrongfully condone the delay of 44 days beyond the 90 day statutory period. Learned counsel also submits that the learned commercial court





exceeded its jurisdiction by giving findings on the merits and holding the Respondent's expulsion as *mala fide* and directing her reinstatement until passing of the final award which amounts to passing of an interim arbitral award and encroaching on the subject matter of arbitration.

23. Learned counsel submits that on 04.06.2025, under the garb and purported authority of the impugned order, the Respondent unilaterally and illegally convened and conducted a partners meeting in violation of the mandatory requirements of quorum, notice and majority decision making as prescribed under the governing partnership deed and the Act of 2008, whereby the Respondent illegally passed a resolution authorizing herself to act on behalf of the LLP, including the power to sign and file necessary documents including Form Nos. 3 and 4 with the ROC and take all consequential actions to ensure "compliance" with the impugned order.

24. Learned counsel, vide a separate Section 151 CPC application, also submits that during the pendency of the appeal against the order of the learned commercial court, the Respondent in a *mala fide* manner initiated Execution Petition 67 of 2025 before the learned Commercial Court-I, Jaipur Metro-II seeking enforcement of the very order under challenge in the present appeal and for which the learned commercial court passed an *ex parte* order on 01.07.2025 allowing respondent to operate the LLP's bank accounts, attaching the registered office of the LLP and Bundi factory and directing the ROC to file Appellant's Forms 3 and 4 as defective.





25. Per contra, learned for the respondent submits that the present application is not maintainable as the Appellants have incorrectly invoked the inherent powers of this court under Section 151 of the Code of Civil Procedure 1908 (hereinafter referred to as 'CPC') and that such an application can only be maintained under Order XLI Rule 27 of the CPC which specifically governs the production of additional evidence at the Appellate stage. Learned counsel further submits that under the garb of the said application, the appellants have sought the relief of stay, which falls outside the scope of Section 151.

26. Learned counsel for the Respondent also submits that the order passed by the learned commercial court has not been stayed by this Court and therefore there is no question of staying the execution, more particularly, when the Respondent has been illegally removed from the LLP despite holding 45% share in the same. Learned counsel on the aspect of limitation also submits that the order passed by the learned commercial court is in complete conformity with Order XXI Rule 22 of the CPC as issuance of notice is not required if the execution petition is filed within 2 years from the date of decree.

27. Learned counsel for the Respondents further submits that in execution proceedings there is no requirement of impleading of a new party. Learned counsel further submits that the status quo order dated 07.07.2025 passed by this Court is restricted only to the immovable property and does not extend to the entirety of the order dated 02.06.2025 or to other aspects of execution.





28. As no stay was granted by this Court, the appellants approached the Supreme Court and the Supreme Court has directed this Court to ensure that the present Special Appeal is heard and disposed of on or before 30.04.2026¹.

ANALYSIS AND FINDINGS

29. We have considered the submissions.

30. At the outset, while there have been a multitude of allegations made pertaining to misappropriation of funds and wrongful expulsion from the LLP, from a perusal of the facts of the case, it is evident that there has been no arbitrator which has been appointed yet to adjudicate the disputes and hence no arbitral award passed.

31. In fact, the order of the learned commercial court also mentioned the interim measures granted under Section 9 of the Act of 1996 to be subject to the outcome of the final arbitral award. Therefore, at this stage, this court cannot examine on merits of the case, more specifically, pertaining to the issues raised regarding the validity of the Respondent's expulsion, breach of trust and allegations of misappropriation of the LLP's funds, which is to be adjudicated by an arbitrator appointed for the same in terms of the arbitration clause enshrined in LLP agreement. In this regard, it would be apposite to quote Section 37 of the Act of 1996:

"37. Appealable orders.- (1) [Notwithstanding anything contained in any other law for the time being in force, an appeal] shall lie from the following orders (and from no others) to the Court authorised by law to hear appeals from original decrees of the Court passing the order, namely:-
[(a) refusing to refer the parties to arbitration under section 8;

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- (b) granting or refusing to grant any measure under section 9;
(c) setting aside or refusing to set aside an arbitral award under section 34.]

(2) An appeal shall also lie to a Court from an order of the arbitral tribunal.-

(a) accepting the plea referred to in sub-section (2) or sub-section (3) of section 16; or

(b) granting or refusing to grant an interim measure under section 17.

(3) No second appeal shall lie from an order passed in appeal under this section, but nothing in this section shall affect or taken away any right to appeal to the Supreme Court."

Furthermore, on the scope of Section 37 of the Act of 1996, the Hon'ble Supreme Court in **Punjab State Civil Supplies Corporation Limited and Another vs Sanman Rice Mills and Others²** held as under:

"20. In view of the above position in law on the subject, the scope of the intervention of the court in arbitral matters is virtually prohibited, if not absolutely barred and that the interference is confined only to the extent envisaged under Section 34 of the Act. The appellate power of Section 37 of the Act is limited within the domain of Section 34 of the Act. It is exercisable only to find out if the court, exercising power under Section 34 of the Act, has acted within its limits as prescribed thereunder or has exceeded or failed to exercise the power so conferred. The Appellate Court has no authority of law to consider the matter in dispute before the arbitral tribunal on merits so as to find out as to whether the decision of the arbitral tribunal is right or wrong upon reappraisal of evidence as if it is sitting in an ordinary court of appeal. It is only where the court exercising power under Section 34 has failed to exercise its jurisdiction vested in it by Section 34 or has travelled beyond its jurisdiction that the appellate court can step in and set aside the order passed under Section 34 of the Act. Its power is more akin to that superintendence as is vested in civil courts while exercising revisionary powers. The arbitral award is not liable to be interfered unless a case for interference as set out in the earlier part of the decision, is made out. It cannot be disturbed only for the reason that instead of the view taken by the arbitral tribunal, the other view which is also a possible view is a better view according to the appellate court."

32. The first aspect for examination is whether the learned commercial court erred in granting condonation of delay beyond the statutory period. In this regard it would be appropriate to





quote the relevant portion from the judgment of the learned commercial court:

70. साथ ही चूंकि प्रार्थी की ओर से मध्यस्थता कार्यवाही शुरू किये जाने के क्रम में एक नोटिस दिनांकित 24.05.2025 जरिये रजिस्टर्ड पोस्ट दिनांक 06.05.2025 को अप्रार्थीगण को प्रेषित किया जा चुका है। अर्थात् अप्रार्थीगण की ओर से दिनांक 23.12.2024 को दी गई अप्डरटेकिंग के 134वें दिन मध्यस्थता कार्यवाही शुरू कि जा चुकी है, ऐसे में हस्तगत प्रकरण के विशिष्ट प्रकृति के तथ्यों एवं परिस्थितियों को दृष्टिगत रखते हुए अधिनियम की धारा 9(2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए न्यायहित में 90 दिन से अधिक की 44 दिन के विलम्ब की अवधि को बढ़ाया जाकर इस दोष को दूर किया जाना न्यायोचित प्रतीत होता है।

It would further be apposite to quote Section 9 of the Act of 1996:

"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 person of unsound mind for the purposes of arbitral proceedings; or

(ii) for an interim measure or 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.]"

33. From a perusal of the above, it is evident that since an arbitrator is yet to be appointed, the learned commercial court did not exceed the scope of Section 9(2) of the Act of 1996 but rather exercised its discretion granted to it under the said provision and therefore, it cannot be said that the delay has been wrongfully condoned and therefore the delay has been rightfully condoned by the commercial court.

34. Having noted the aforesaid contentions and various aspects, we have carefully gone through the record and the facts of the case and find that the appellants No.2 and 3 and respondent have entered into a partnership. As the respondent had objected to the inclusion of RLL as a partner which resulted into a threat of criminal action against the appellants, the appellants decided to oust the respondent from the partnership in the meeting which they conducted in absence of respondent.

35. Clause 38 of the LLP deserves to be quoted as under:

"Cessation of Existing Partners

.....

38. No majority of Partners can expel any partner except in the situation where any partner has been found/proved guilty of carrying of activity/business of LLP with fraudulent purpose."

36. From a perusal of the above, it is apparent that a procedure is required to be followed in terms of the above-mentioned clause for ousting a partner. A notice of the meeting was required to be given and if there is no communication, *ex parte* meeting can be





held. However, in the present case, we find that while notice of the meeting was sent to the Respondent, the Respondent also conveyed her non-availability to attend the meeting which has not been recorded in the minutes of the meeting dated 12.10.2024.

We also notice that the various facts as alleged by the appellants before us in the appeal with regard to the allegations of the Petitioner's husband claiming interference and engaging in fraudulent activities regarding manipulating the LLP stock registers, it is not part of the decision.

37. Be that as it may, we do not intend to further examine the legality of the decision dated 12.10.2024 but we are satisfied prima facie that the Respondent's ousting from the partnership is not in accordance with Clause 38 of the LLP agreement and therefore the interim order passed by the commercial court to the extent of continuing the respondent as a partner in the LLP does not warrant interference.

38. With regards to the argument pertaining to interim reliefs being in the nature of passing of an interim arbitral award, it would be apposite to quote the relevant portion of the order of the learned commercial court as under:

128. अर्थात् प्रार्थी का अप्रार्थी संख्या 1 एलएलपी से किया गया निष्कासन प्रस्तावित मध्यस्थता कार्यवाही में विद्वान मध्यस्थता अधिकरण द्वारा अंतिम अवार्ड पारित किये जाने तक स्थगित रहेगा तथा उभयपक्ष के मध्य दिनांक 18.08.2023 को निष्पादित एवं प्रमाणित हुआ पूरक करार प्रभावी रहेगा।

132. अप्रार्थी संख्या 2 व 3 के साथ-साथ स्वयं प्रार्थी को भी प्रस्तावित मध्यस्थता कार्यवाही में विद्वान मध्यस्थता अधिकरण द्वारा अंतिम अवार्ड पारित किये जाने तक पाबन्द किया जाता है कि आपसी सहमति के बिना अप्रार्थी संख्या 1 एलएलपी की किसी भी अचल सम्पत्ति को किसी तृतीय पक्षकार को अन्तरित / सुपुर्द ना करें, ना ही किसी तृतीय





पक्षकार का कोई हित सृजित करें तथा तीनों भागीदारान की सहमति के बिना किसी अन्य नये भागीदार को अप्रार्थी संख्या 1 एलएलपी में शामिल ना करें।

39. From a perusal of the above, it is evident that prior to directing restrictions on sale of property under Section 9 of the Act of 1996, the preconditions under Order 38 Rule 5 CPC must be satisfied. The law in this regard, has already been settled by the Apex Court in **Sanghi Industries Limited vs Ravin Cables Ltd. and Another**³ wherein it was held as under:

"5. The order(s) which may be passed by the Commercial Court in an application under Section 9 of the Arbitration Act, 1996 is basically and mainly by way of interim measure. It may be true that in a given case if all the conditions of Order XXXVIII Rule 5 of the CPC are satisfied and the Commercial Court is satisfied on the conduct of opposite/opponent party that the opponent party is trying to sell its properties to defeat the award that may be passed and/or any other conduct on the part of the opposite/opponent party which may tantamount to any attempt on the part of the opponent/opposite party to defeat the award that may be passed in the arbitral proceedings, the Commercial Court may pass an appropriate order including the restrain order and/or any other appropriate order to secure the interest of the parties. However, unless and until the conditions mentioned in Order XXXVIII Rule 5 of the CPC are satisfied such an order could not have been passed by the Commercial Court which has been passed by the Commercial Court in the present case, which has been affirmed by the High Court."

40. The scope of interference at the appellate stage with applications filed under Section 9 of the Act of 1996 was also examined by the Hon'ble Supreme Court in **Meraj Yusha vs Hamida Khatoon and Others**⁴ wherein the following order was passed:

"9. At this stage, we are not enquiring into the merits of the rival contentions since any expression of opinion by this Court may affect the course of the hearing of the interim applications in the arbitral proceedings. It would be appropriate that all applications for interim relief are heard by the sole Arbitrator under Section 17 of the Act of 1996. In the meantime, the interim stay which was granted by the Single Judge in the proceedings under Section 9 of the Act

3 2022 SCC OnLine SC 1392

4 Civil Appeal Nos. 8033-8035/2024, dated 26.07.2024





of 1996 for a period of six weeks shall continue to remain in operation until 15 September 2024."

41. From a perusal of the order of the learned commercial court dated 02.06.2025 we are satisfied that the property of the LLP was required to be protected and no interference in this regard is necessary.

42. However, this Court finds that interference is warranted with the other observation and directions issued by the learned commercial court as observed hereinabove. It is the arbitrator who will decide all inter se disputes and it is the arbitrator who will take decisions regarding the disputes and how to settle them. The commercial court while exercising power under Section 9 of the Act of 1996 would not have the power to allow one of the parties to initiate proceedings for dissolution of the firm nor it can direct the Respondent to interfere with the affairs of the LLP as it only has 45% of the shares while the Appellant possesses majority shares. We say so as the powers under Section 9 of the Act of 1996 are only to the extent of passing of interim order which cannot be of final nature.

43. At the same time, since Form Nos. 3 and 4 had already been sent to the ROC, the direction to operate the bank account with the signatures of the respondent were also not called for and it amounted to granting status quo ante and the learned Commercial Court ought to have waited for the said adjudication by the arbitrator who has to be appointed by the High Court in this regard.

44. The effect of the above would be that the LLP will remain in the status as it was existing prior to ouster of respondent, i.e.,





12.10.2024 and properties of the LLP shall not be sold or mortgaged, nor any third party right would be created in the firm till disposal of the arbitration application.

45. The original funds of LLP shall also remain protected. However, day-to-day functioning of the LLP shall be allowed to be done by the concerned appellants.

46. We further stay all the execution proceedings initiated by the respondent and the accounts of the LLP shall be released to be continued to be operated under the signatures of Appellants No. 1 and 2 above. It is made clear that if the arbitrator finds any of the accounts being personally used by the Appellants 1 and 2, he would be empowered to consider reimbursement and appropriate relief to the Respondent.

47. The directions issued by the learned Commercial Court in paragraph nos. 127, 128, 129, 130, 131, 132, 133, 134, 135, 136 and 137 of the impugned order are hereby quashed and set aside.

48. To the aforesaid extent, the impugned order dated 02.06.2025 passed by the Commercial Court needs to be modified and we accordingly, do so.

49. The appeal stands partially allowed.

50. All pending applications also stand disposed of.

(SHUBHA MEHTA),J

(SANJEEV PRAKASH SHARMA),ACTING CJ

Gaurav/