



2026:DHC:5205-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Judgment reserved on: 29.05.2026*

*Judgment pronounced on: 01.07.2026*

*Judgment uploaded on: 01.07.2026*

+ FAO(OS) (COMM) 150/2026 and CM APPL. 38359/2026

M/S SLR CONSTRUCTION PVT LTD .....Appellant

Through: Mr. Rajesh Mohan Sinha, Mr.  
Prateek Mohan Sinha, Ms.  
Namita Sinha, Ms. Nandini  
Harsh and Mr. Krishnendu Das,  
Advs.

versus

GAIL INDIA LTD AND ANR .....Respondents

Through: Mr. Deepayan Mandal, Mr.  
Mridul Bansal, Mr. Monu, Mr.  
Naman Varma and Mr. Aryan  
Ahmed, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

### **J U D G M E N T**

#### **ANIL KSHETARPAL, J.:**

1. The present Appeal assails the correctness of the order dated 23.04.2026 [‘Impugned Order’] passed by the learned Single Judge in O.M.P.(I)(COMM.) 173/2026, whereby the petition filed by the Appellant under Section 9 of the Arbitration and Conciliation Act, 1996 [‘the A&C Act’], came to be dismissed, while leaving it open to the Appellant to invoke arbitration and avail remedies in accordance with law.

2. The issue which arises for consideration in the present Appeal is whether relief under Section 9 of the A&C Act, seeking



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release/payment of alleged admitted contractual dues, can be granted where the relief claimed substantially amounts to enforcement of a monetary claim and no circumstances are shown warranting interim protection in aid of arbitral proceedings.

**FACTUAL MATRIX:**

3. In order to appreciate the controversy involved in the present Appeal, the relevant facts, in brief, are required to be noticed.

4. The Respondent No.1/GAIL (India) Limited [‘GAIL’] floated E-Tender No. 8000010840 dated 15.06.2017 in relation to execution of Terminal Station Works (Part-E), Gorakhpur, under the Auraiya-Phulpur and Gorakhpur Spur Lines of the Phulpur-Haldia Pipeline Phase-I Project. The scope of work comprised execution of four Sectionalising Valve terminal stations, namely SV-5G, SV-6G, SV-7G and SV-8G, together with one Receiving Terminal at RT-HURL, Gorakhpur.

5. Pursuant thereto, the Appellant was awarded the subject work *vide* Letter of Acceptance dated 28.05.2018 for a contract value of Rs.18,01,31,996/- excluding GST. The stipulated period for completion of the works was eight (08) months.

6. The Appellant claims that from the inception of the project, the execution of the works was affected by various impediments including non-availability of encumbrance-free sites, restricted access, waterlogging, delayed drawings, pipeline interferences and delays attributable to the integrated pipeline network project. According to



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the Appellant, the terminal works formed an intrinsic component of the larger pipeline project and could not be executed as independent standalone works within the originally stipulated period.

7. It is the case of the Appellant that though the original stipulated completion period expired on 27.08.2018, the timeline for execution continued to be extended from time to time in view of interdependent project constraints and disruptions arising out of the COVID-19 pandemic. The Appellant asserts that the works ultimately stood completed on 30.11.2022 and that the Defect Liability Period expired on 29.11.2023.

8. The Appellant further claims that it submitted its 24<sup>th</sup> and Final Bill dated 14.02.2024 for an amount of Rs.4,32,30,085.19/-, which was thereafter certified by the Project Management Consultant, namely M/s MECON Limited, on 25.02.2025. It is the Appellant's case that upon certification of the said bill, an amount of Rs.2,74,22,708.41/- was certified/recommended for release, apart from certain retained amounts.

9. The Appellant also places reliance upon issuance of a Provisional Completion Certificate, deduction of TDS by GAIL on 31.03.2025 and subsequent processing of invoices on the Bhim portal, in order to contend that the liability stood acknowledged by GAIL.

10. According to the Appellant, instead of releasing the aforesaid amounts, GAIL attempted to link the present contract with certain other independent contracts, namely DDPL Part-A and DDPL Part-B contracts, and sought to effect recoveries therefrom through cross-



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adjustments.

11. The record indicates that earlier, the Appellant had approached this Court by filing O.M.P.(I)(COMM.) 191/2025 under Section 9 of the A&C Act in relation to the alleged attempt on the part of GAIL to effect recoveries from other contracts. The said petition was disposed of on 23.05.2025 on the basis of an undertaking furnished on behalf of GAIL that no recovery would be effected from other contracts of the Appellant.

12. Thereafter, according to the Appellant, the final bill was reprocessed and re-certified on 06.08.2025. The Appellant asserts that after certain deductions and retentions, a net amount of Rs.2,08,07,652.57/- was reflected as certified for release.

13. Alleging continued withholding of the aforesaid amount, despite repeated representations and reminders, the Appellant filed O.M.P.(I)(COMM.) 173/2026 under Section 9 of the A&C Act before the learned Single Judge principally seeking release/payment of the aforesaid amount, protection against alleged unlawful cross-recoveries and interim safeguarding of its monetary claims pending commencement of arbitration.

14. The learned Single Judge, *vide* the Impugned Order dated 23.04.2026, dismissed the petition primarily holding that the relief sought by the Appellant, in substance, amounted to enforcement/payment of contractual dues and that Section 9 of the A&C Act could not be invoked either as a substitute for adjudication of monetary claims or as a mechanism for grant of final monetary



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relief at a preliminary stage in the absence of circumstances justifying interim protection.

15. Aggrieved thereby, the present Appeal has been preferred.

### **CONTENTIONS OF THE PARTIES:**

16. Contentions on behalf of the Appellant:

16.1. Learned counsel for the Appellant submitted that the learned Single Judge failed to appreciate that the amounts claimed by the Appellant were not disputed amounts requiring adjudication, but constituted admitted and certified dues payable by GAIL.

16.2. It was contended that the final bill submitted by the Appellant stood certified by the Project Management Consultant and was thereafter processed by GAIL itself. Reliance was also placed upon issuance of the Provisional Completion Certificate, deduction of TDS under Section 194C of the Income Tax Act, 1961, uploading of invoices on the Bhim portal and alleged availment of GST input tax credit by GAIL in order to contend that the liability stood acknowledged.

16.3. It was further submitted that despite repeated representations and requests made by the Appellant, GAIL neither released the amount claimed by the Appellant nor disclosed any justification acceptable to the Appellant for withholding the same. According to the Appellant, in the absence of any dispute having been raised by GAIL, the learned Single Judge ought to have directed release of the amount.



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16.4. It was also contended that GAIL, being an instrumentality of the State within the meaning of Article 12 of the Constitution of India, was obligated to act fairly and reasonably even in contractual matters and that arbitrary withholding of admitted dues warranted interference by the Court.

16.5. It was lastly submitted that the learned Single Judge failed to appreciate that the Appellant had approached the Court only for securing and releasing admitted dues and not for adjudication of disputed claims.

17. Contentions on behalf of the Respondents:

17.1. *Per contra*, learned counsel for the Respondents submitted that the learned Single Judge has rightly declined to exercise jurisdiction under Section 9 of the A&C Act inasmuch as the relief sought by the Appellant was, in substance, for enforcement and recovery of alleged contractual dues, which cannot be granted in proceedings under Section 9 of the A&C Act.

17.2. It was submitted that the disputes between the parties are purely contractual in nature and arise out of execution of the subject contract, including disputes relating to performance of obligations, delays, deductions, retentions and financial liabilities. According to the Respondents, such disputes necessarily require adjudication in accordance with the dispute resolution mechanism agreed between the parties and cannot be finally determined in proceedings seeking interim measures.



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17.3. It was further submitted that mere certification or processing of bills by the Project Management Consultant or internal processing of invoices does not amount to conclusive determination of liability so as to entitle the Appellant to seek release of amounts under Section 9 of the A&C Act. It was contended that the reliance placed by the Appellant upon deduction of TDS, issuance of completion certificates or alleged availment of GST input tax credit is misconceived and does not dispense with the requirement of adjudication of disputes through arbitration.

17.4. It was also contended that no case whatsoever has been made out by the Appellant for grant of interim protection under Section 9 of the A&C Act. It was submitted that there is no averment or material on record indicating any imminent dissipation of assets, frustration of arbitral proceedings or any circumstance suggesting that an eventual arbitral award, if passed in favour of the Appellant, would become incapable of enforcement.

17.5. It was submitted that GAIL is a Public Sector Undertaking and the apprehension sought to be projected by the Appellant regarding frustration of arbitral remedy is wholly unfounded. It was argued that in the absence of any exceptional circumstance warranting securing of the amount in dispute, the learned Single Judge rightly declined to grant the relief sought by the Appellant.

### **ANALYSIS & FINDINGS:**



18. This Court has carefully considered the submissions advanced on behalf of the parties and perused the material on record. The principal grievance sought to be projected by the Appellant is that certain amounts payable under the contract stood certified and acknowledged by GAIL and that despite such certification, the said amounts have not been released. On such basis, it is sought to be contended that the learned Single Judge erred in declining relief under Section 9 of the A&C Act.

19. In order to appreciate the aforesaid contention, it becomes necessary to first notice the nature and scope of jurisdiction exercisable by the Court under Section 9 of the A&C Act, which is reproduced as under:

*9. Interim measures, etc., by Court.—1 [(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 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.]*

20. A perusal of the above reveals that Section 9 of the A&C Act empowers the Court to grant interim measures of protection before, during or after arbitral proceedings in aid of arbitration. The provision is essentially intended to preserve the efficacy of arbitral proceedings and to protect the subject matter of arbitration pending adjudication by the arbitral tribunal. The jurisdiction under Section 9 is, therefore, protective and interim in nature. The said provision is not intended either for final adjudication of contractual disputes or for enforcement of monetary claims arising out of contracts. The provision cannot ordinarily be invoked for recovery of money simpliciter or for obtaining directions which would virtually amount to decreeing the principal monetary claim itself.

21. Though Section 9(1)(ii)(b) enables the Court to pass orders securing the amount in dispute in arbitration, the same does not imply that every monetary claim arising under a contract can straightaway be converted into proceedings for payment or recovery under Section 9



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of the A&C Act. The power to secure the amount in dispute is ordinarily exercised where circumstances exist indicating a real likelihood of frustration of arbitral proceedings or where the conduct of a party demonstrates an attempt to defeat the eventual award. The jurisdiction is not intended to bypass the adjudicatory mechanism agreed between the parties or to effectively grant, at an interlocutory stage, substantially the very relief which would otherwise fall for determination in arbitral proceedings.

22. Examined in the aforesaid backdrop, this Court finds it unable to accept the contention advanced on behalf of the Appellant that the learned Single Judge committed any error in declining relief under Section 9 of the A&C Act.

23. A careful examination of the pleadings itself demonstrates existence of multiple disputes between the parties arising out of the execution of the contract. The Appellant has, inter alia, alleged wrongful withholding of payments, arbitrary deductions, illegal retentions, interference in execution of the contract, improper extensions of time and attempted cross-adjustments with other contracts.

24. The pleadings also disclose disputes relating to contractual performance, financial liabilities, deductions and consequences arising out of execution of the works. These are essentially disputes arising out of contractual rights and obligations between the parties and necessarily require adjudication in accordance with the agreed dispute resolution mechanism.



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25. The submission advanced on behalf of the Appellant that “no dispute exists” is, therefore, difficult to accept. In fact, the averments contained in the petition itself unmistakably indicate existence of subsisting disputes between the parties in relation to execution and financial consequences of the contract. Indeed, the very foundation of the petition proceeds on assertions of wrongful withholding, illegal deductions, arbitrary retentions and improper conduct on the part of GAIL, all of which unmistakably demonstrate existence of disputes requiring adjudication.

26. Mere certification or processing of bills by the Project Management Consultant, or internal processing of invoices by GAIL, cannot by themselves be treated as conclusive determination of inter se contractual rights and liabilities so as to justify grant of payment directions under Section 9 of the A&C Act.

27. Similarly, deduction of TDS, issuance of completion certificates or alleged availment of GST input tax credit cannot, at this stage, be construed as conclusive adjudication of liability dispensing with the requirement of adjudication of disputes through arbitration. Such acts may, at best, constitute evidentiary circumstances, but cannot substitute adjudication of contractual disputes through the agreed arbitral mechanism.

28. The relief sought by the Appellant, though couched as a prayer for securing alleged admitted dues, in substance seeks a direction for release/payment of contractual amounts claimed to be payable under the contract. Grant of such relief would effectively amount to



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enforcement of the Appellant's monetary claim and grant of substantially final relief at the threshold, without adjudication of the disputes arising between the parties.

29. In the facts of the present case, this Court is in agreement with the view taken by the learned Single Judge that the relief sought by the Appellant substantially travels beyond the scope of interim protection contemplated under Section 9 of the A&C Act.

30. Equally significant is the fact that no material has been placed on record by the Appellant demonstrating existence of any exceptional circumstance warranting exercise of powers under Section 9 for securing the amount claimed.

31. There is no averment or material indicating any imminent dissipation of assets by GAIL, any likelihood of frustration of arbitral proceedings, or any circumstance suggesting that the eventual arbitral award, if passed in favour of the Appellant, would become incapable of enforcement.

32. On the contrary, the Respondent is a Public Sector Undertaking. In the absence of any material demonstrating a real apprehension that the arbitral remedy itself would stand frustrated, a claim for payment of contractual dues cannot ordinarily be transformed into proceedings under Section 9 of the A&C Act.

33. The submission advanced on behalf of the Appellant founded upon Article 14 of the Constitution of India also does not persuade this Court to take a different view in the facts of the present case.



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34. The present proceedings arise out of a commercial contract admittedly containing an arbitration clause agreed between the parties. The petition filed before the learned Single Judge was under Section 9 of the A&C Act and not in exercise of writ jurisdiction under Article 226 of the Constitution of India.

35. The allegations of arbitrariness or unfairness sought to be urged by the Appellant would themselves require examination in the context of contractual disputes between the parties and cannot furnish a basis for grant of what is essentially final monetary relief in proceedings under Section 9 of the A&C Act. The mere fact that one of the contracting parties is a public sector undertaking does not dilute the agreed contractual mechanism for resolution of disputes through arbitration.

36. It also cannot be lost sight of that the learned Single Judge has not foreclosed the remedies available to the Appellant. The Impugned Order expressly leaves it open to the Appellant to invoke arbitration and pursue such remedies as may be available in law.

37. The present Appeal arises under Section 37 of the A&C Act against an order passed by the learned Single Judge in exercise of discretionary jurisdiction under Section 9 of the A&C Act. The scope of interference in an appeal under Section 37 against an order granting or refusing interim measures is limited. Unless the discretion exercised by the Court is shown to be arbitrary, capricious, perverse or contrary to settled principles governing exercise of jurisdiction under Section 9, appellate interference would ordinarily not be warranted.



The appellate Court would not substitute its own discretion merely because another view is possible.

38. Having carefully examined the Impugned Order, this Court finds that the learned Single Judge has correctly appreciated the nature of the relief sought by the Appellant and has applied settled principles governing exercise of jurisdiction under Section 9 of the A&C Act.

39. At its core, the present dispute concerns the Appellant's claim for payment of amounts allegedly due under a commercial contract and the Respondent's alleged withholding thereof. Such disputes squarely fall within the domain of arbitral adjudication contemplated under the agreement executed between the parties. Section 9 of the A&C Act cannot be permitted to be employed as a means for obtaining, in effect, a direction for recovery/payment of contractual dues in the absence of circumstances warranting interim protection in aid of arbitration.

### **CONCLUSION:**

40. In view of the aforesaid discussion, this Court does not find any perversity, patent illegality or jurisdictional error in the view taken by the learned Single Judge warranting interference in appellate jurisdiction.

41. Accordingly, the present Appeal being devoid of merit, along with the pending application, is dismissed.

42. It is clarified that any observations made herein are confined to adjudication of the present Appeal and shall not be construed as an



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expression on the merits of the disputes between the parties, which shall remain open for consideration in appropriate proceedings in accordance with law.

**ANIL KSHETARPAL, J.**

**AMIT MAHAJAN, J.**

**JULY 01, 2026**

*jai/pal*