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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMM ARBITRATION PETITION (L) NO.13434 OF 2026

Vinod Kumar Saraf … **Petitioner**

Vs.

1. **Villayati Ram Mittal**
2. **Surinder Kumar Mittal**
3. **Asha Mittal**
4. **Gobind Mittal**
5. **Gopal Mittal**
6. **The Registrar of Firm/Society, District South East** … **Respondents**

Mr. Mayur Khandeparkar with Mr. Muttahar Khan, Mr. Anand R. Pai, Mr. Sachin Mhatre, Mr. Sujit Rao, Ms. Smriti Yadav, and Mr. Roshan Reji i/by Mhatre Law Associates for the petitioner.

Mr. Simil Purohit, Senior Advocate with Mr. Rashmin Khandekar i/by Mr. Mohit Sant for respondent Nos. 1 to 5.

CORAM : AMIT BORKAR, J.

RESERVED ON : JULY 8, 2026.

PRONOUNCED ON : JULY 14, 2026

JUDGMENT:

1. By this petition filed under Section 9 of the Arbitration and Conciliation Act, 1996, the petitioner is seeking urgent interim protection against the respondents. According to the petitioner, the respondents have acted in breach of the Partnership Deed dated 16 April 2014. It is alleged that respondent No. 2 has violated his duties as a partner, acted dishonestly, and falsely shown that the petitioner had retired from the partnership firm. It is also the case of the petitioner that the respondents are trying to forcibly remove him from the premises which form part of the assets of the partnership firm situated at Mumbai.

2. The facts leading to the filing of the present petition, as stated by the petitioner, are as follows. The petitioner claims that he is a partner of respondent No. 1 firm, namely M/s Villayati Ram Mittal, holding a 5% share under the reconstituted Partnership Deed dated 16 April 2014, which came into effect from 31 March 2014. Respondent No. 1 is a registered partnership firm bearing Serial No. 1749/79. It was established by Late Shri Villayati Ram Mittal in the year 1979 and is engaged in the business of execution of works contracts and other related activities. The firm has its branch office at Navi Mumbai and its registered office at New Delhi. According to the petitioner, the firm owns substantial assets and properties situated at different places, having an approximate value of more than Rs.1,500 Crores. It is the petitioner's case that his 5% share in the firm is worth about Rs.75 Crores. The petitioner further states that the assets of the firm include three residential premises, namely, Flat No. A-502, Flat No. A-104 together with three stilt car parking spaces at Krishna Regency, Datta Mandir Road, Vakola, Santacruz (East), Mumbai, and Flat No. C-42 at Park Avenue, R.T.O. Lane, Andheri (West), Mumbai. These premises are the subject-matter of the present petition.

3. According to the petitioner, respondent No. 2, Mr. Surinder Kumar Mittal, is his brother-in-law and is the controlling partner of respondent No. 1 firm, holding a 95% share. It is alleged that respondent No. 2 has complete control over the management, accounts, and records of the firm. The petitioner alleges that respondent No. 2 has acted against his duties as a partner and has taken several actions which are harmful to the petitioner's rights and interest. It is further alleged that the claim that the petitioner has retired from the partnership firm is false, fraudulent and not legally valid. According to the petitioner, the respondents have not produced any undisputed Retirement Deed or any other legal document to show that the petitioner has retired from the firm.

4. Without prejudice to the above contentions, the petitioner submits that even if it is assumed, without admitting, that he had retired from the partnership firm, such retirement is void and has no legal effect for the following reasons. Firstly, no amount has been paid to the petitioner towards the value of his 5% partnership share. Secondly, no settlement of accounts has taken place. Thirdly, no statement of accounts, balance sheet or profit and loss account has been prepared at the time of the alleged retirement. Fourthly, no valuation of the partnership assets has been carried out. Lastly, there has been no distribution of the assets, profits or liabilities of the partnership firm.

5. The petitioner further states that respondent Nos. 3 to 5 have been brought in as new partners of respondent No. 1 firm under a purported Reconstituted Partnership Deed dated 14 December 2024 by wrongly showing that the petitioner had retired from the partnership. According to the petitioner, further inquiry revealed that fabricated documents were prepared to falsely show his retirement. These include an alleged Indemnity Bond dated 18 February 2025 and an Affidavit dated 18 February 2025, which was allegedly notarised on 24 February 2025. It is also alleged that on the basis of these documents, respondent No. 6 issued Form C dated 25 March 2025 showing "Vinod Kishan Saraf" as the outgoing partner, though, according to the petitioner, this is not his correct legal name.

6. In the above background, the petitioner, through his Advocates, issued a notice dated 7 March 2026 invoking arbitration under Section 21 of the Arbitration and Conciliation Act, 1996. On the same day, the petitioner also issued a notice seeking dissolution of respondent No.1-partnership firm. According to the petitioner, respondent Nos.1 to 5 thereafter filed three eviction suits, being L.E. Suit Nos.23, 24, and 25 of 2026 before the Small Causes Court at Mumbai, Bandra Division, seeking possession of the suit premises. The petitioner contends that these suits have been filed in breach of the arbitration agreement contained in Clause 16 of the Reconstituted Partnership Deed dated 16 April 2014, which governs all disputes between the partners, including disputes relating to the suit premises forming part of the partnership assets. It is the petitioner's case that the filing of these suits is an attempt to avoid the agreed dispute resolution mechanism and to defeat the interim protection sought in the present proceedings. On these grounds, the petitioner has filed the present arbitration petition.

7. In the present petition, the petitioner has prayed for interim reliefs. The petitioner seeks an order restraining respondent Nos. 1 to 5 from prosecuting or taking any further steps in L.E. Suit Nos. 23, 24, and 25 of 2026 pending before the Small Causes Court, Mumbai. The petitioner has also sought stay of the said suits and a direction that no interim or final order adverse to him be passed in those proceedings until completion of the arbitral proceedings or until further orders of this Court. The petitioner has further prayed for an injunction restraining respondent Nos.1 to 5 from selling, transferring, creating third party rights or otherwise dealing with the assets of respondent No. 1 firm, including the three flats described in the petition. The petitioner has also sought an order restraining respondent No.6 from acting upon the alleged Affidavit and Indemnity Bond dated 18 February 2025 and a direction to respondent No.6 to produce those documents before this Court and not to act upon any change in the constitution of the partnership firm based on those documents. Lastly, the petitioner has prayed for appointment of the Court Receiver, High Court, Bombay, or any other suitable person, as Receiver of the assets of respondent No.1 firm with such powers as this Court may consider appropriate.

8. Mr. Mayur Khandeparkar, learned Advocate appearing for the petitioner, submitted that the petitioner has made out a strong prima facie case. According to him, the Partnership Deed dated 16 April 2014, Form V dated 20 May 2014 and the subsequent statutory records clearly show that the petitioner continues to be a partner of respondent No.1 firm holding a 5% share. He submitted that respondent Nos.1 to 5 have already filed eviction suits before the Small Causes Court in respect of the said premises and are actively prosecuting those proceedings. According to him, those proceedings are based on suppression of material facts and misrepresentation. He submitted that unless interim protection is granted, the petitioner is likely to be dispossessed from the partnership properties, which would defeat the very purpose of the arbitration proceedings.

9. Learned Advocate for the petitioner submitted that Clause 5 of the Partnership Deed dated 16 April 2014 provides that the principal place of business of the firm shall be at the place where the work is being carried out. He submitted that all substantial business activities of the firm have, in recent years, been conducted from Mumbai. Therefore, according to him, the seat of arbitration has to be treated as Mumbai. He submitted that this Court, therefore, has supervisory jurisdiction over the arbitral proceedings and is competent to entertain the present petition under Section 9 of the Arbitration and Conciliation Act, 1996.

10. He further submitted that a substantial part of the cause of action has arisen within the territorial jurisdiction of this Court. According to him, the partnership assets requiring protection are situated in Mumbai, the eviction notice dated 11 March 2026 was issued in respect of the Mumbai properties, the threats of dispossession have arisen in Mumbai, and the petitioner's rights are being affected within the jurisdiction of this Court. He submitted that the entire dispute has a direct connection with Mumbai. The partnership properties are situated in Mumbai, the eviction notices have been received in Mumbai and, for all practical purposes, the business of the firm is being carried on from Mumbai. He submitted that the seat of arbitration must, therefore, be taken to be Mumbai and this Court alone has supervisory jurisdiction over the arbitral proceedings. On this basis, he submitted that the objection to the jurisdiction of this Court deserves to be rejected.

11. Mr. Khandeparkar further submitted that the question, whether one partner has the authority to file eviction proceedings against another partner cannot be decided by the Small Causes Court where the three eviction suits are pending. He submitted that for deciding territorial jurisdiction in proceedings under Section 9 of the Arbitration and Conciliation Act, the nature of the relief sought in the Section 9 petition is the relevant consideration. According to him, the concept of primary relief, which is applicable to civil suits, cannot be applied to proceedings under Section 9 because a party may seek different reliefs before the Arbitral Tribunal while limiting the reliefs sought before the Court under Section 9. He submitted that the registered office of the partnership firm is not the deciding factor for determining jurisdiction in the present case, since the relief sought is an injunction against proceedings pending before Courts situated within the territorial jurisdiction of this Court. He also submitted that the projects undertaken by the firm and its business activities are carried on in Mumbai.

12. Placing reliance on Section 42 of the Arbitration and Conciliation Act, 1996, learned Advocate submitted that where the parties have not agreed upon the seat of arbitration, an application under Section 9 can be filed before a Court within whose jurisdiction a part of the cause of action has arisen. He submitted that once such an application is filed, that Court alone will have jurisdiction over all subsequent arbitral proceedings in view of Section 42 of the Act. In support of this submission, he relied upon the judgment of the Supreme Court in *BGS SGS SOMA JV vs. NHPC Limited*, (2020) 4 SCC 234.

13. Learned Advocate further relied upon the judgment of the Supreme Court in *Sumer Builders Private Limited vs. Narendra Gorani*, (2016) 2 SCC 582, and submitted that Sections 16, 17, 20, and 120 of the Code of Civil Procedure are not applicable to the High Court while exercising its original civil jurisdiction. According to him, the territorial jurisdiction of this Court is governed by Clause 12 of the Letters Patent.b

14. He also relied upon the judgment of the Supreme Court in *Patel Roadways Limited, Bombay vs. Prasad Trading Company,* (1991) 4 SCC 270. He submitted that the Explanation to Section 20 of the Code of Civil Procedure makes it clear that where a defendant has both a principal office and a subordinate office, and the cause of action arises at the place where the subordinate office is situated, jurisdiction will lie with the Court within whose territorial limits the subordinate office is located. According to him, the location of the subordinate office is therefore relevant for deciding territorial jurisdiction where the cause of action has arisen there.

15. Per contra, Mr. Purohit, learned Senior Advocate appearing for the respondents, raised a preliminary objection to the territorial jurisdiction of this Court. He submitted that the registered office of respondent No. 1 firm is situated at Delhi and the books of account of the firm are also maintained there. Placing reliance on the judgment of the Supreme Court in *Addanki Narayanappa & Anr. vs. Bhaskara Krishtappa & Ors.,* 1966 SCC OnLine SC 6, he submitted that the interest of a partner in a partnership firm is movable property. He submitted that a suit seeking dissolution of a partnership and rendition of accounts cannot be treated as a suit for land merely because the assets of the firm include immovable properties. According to him, once a partner brings any property into the partnership, that property becomes the property of the partnership firm. He submitted that the Supreme Court, while deciding the said case, had considered a situation where the assets of the partnership included immovable properties situated outside the jurisdiction of the Court and held that such a suit would still not become a suit for land. Inviting attention to paragraph 13 of the notice invoking arbitration, he submitted that the petitioner himself had sought dissolution of the partnership firm.

16. In reply to the contention regarding the powers of the Small Causes Court, learned Senior Advocate submitted that the Small Causes Court is competent to decide disputes relating to possession between the parties where the claim arises out of the relationship of licensor and licensee.

17. Learned Senior Advocate further submitted that there can be only one seat of arbitration and not different seats depending upon the location of different partnership properties. According to him, if the petitioner's submission is accepted, the existence of partnership properties at different places would result in more than one seat of arbitration, which is not permissible in law. He submitted that Section 16 of the Code of Civil Procedure, 1908 applies even to proceedings under Section 9 of the Arbitration and Conciliation Act, 1996. According to him, the reliefs sought in the present petition are not reliefs for enforcement of rights in immovable property. Placing reliance upon the decision of the Privy Council in *Luchmee Chund & Others vs. Zorawur Mull & Others*, 1860 SCC OnLine PC 14, he submitted that the place where the partnership business is centrally conducted, where the partnership books are maintained, and where the partners ordinarily refer to those books for ascertaining the state of accounts, are the relevant factors for determining jurisdiction.

18. Learned Senior Advocate also relied upon the judgment of the Madhya Pradesh High Court in *Ratan Lalchandani vs. Gopaldas Kukreja*, ILR 2023 M.P. 1013. He submitted that while considering proceedings under Section 37 of the Arbitration and Conciliation Act, 1996, the Court held that the place where the registered office of the dissolved partnership firm is situated and where its accounts are maintained forms part of the cause of action and confers territorial jurisdiction upon that Court.

19. Lastly, learned Senior Advocate relied upon the judgment of the Supreme Court in *Firm Ashok Traders & Anr. vs. Gurumukh Das Saluja & Ors.*, (2004) 3 SCC 155, and submitted that a person who is not a party to the arbitration agreement cannot seek protection under Section 9 of the Arbitration and Conciliation Act, 1996. He also relied upon the judgment of the Supreme Court in *BBR (India) Private Limited vs. S.P. Singla Constructions Private Limited*, (2023) 1 SCC 693, and submitted that the seat of arbitration must be certain, fixed, and definite. According to him, it cannot remain uncertain or capable of changing, as the parties must clearly know the Court before which judicial remedies are to be pursued. On these grounds, he submitted that the present arbitration petition deserves to be dismissed.

20. Having considered the rival submissions, the pleadings, the documents placed on record and the authorities cited by both sides, in my opinion, the following principal questions arise for determination:

(i) Whether this Court possesses territorial jurisdiction to entertain the present petition under Section 9 of the Arbitration and Conciliation Act, 1996?

(ii) Whether the present dispute substantially concerns partnership rights governed by the arbitration agreement or whether it primarily relates to possession of immovable property?

(iii) Whether the petitioner has established a prima facie case that he continues to be a partner of respondent No.1 firm and that the alleged retirement is prima facie unsupported by law?

(iv) Whether the institution of eviction proceedings before the Small Causes Court affects the maintainability of the present petition or the jurisdiction of this Court under Section 9 of the Arbitration and Conciliation Act?

(v) Whether the petitioner has made out a case for grant of interim protection pending arbitral proceedings?

21. The first objection raised by the respondents goes to the root of the present proceedings. According to the respondents, this Court lacks territorial jurisdiction to entertain the petition. The petitioner contends that this Court possesses jurisdiction because parts of the cause of action have arisen in Mumbai and the arbitration agreement indicates that Mumbai is the juridical seat of arbitration. Since jurisdiction is questioned, it becomes necessary to first examine the statutory scheme in respect of jurisdiction under the Arbitration and Conciliation Act, 1996.

22. Section 9 of the Arbitration and Conciliation Act empowers the Court to grant interim measures before commencement of arbitral proceedings, during arbitral proceedings and after the arbitral award is made but before its enforcement under Section 36. The provision reads thus:

> "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…"

23. Thus, the jurisdiction under Section 9 is conferred upon the "Court" as defined under the Act. The expression "Court" has importance while deciding the present objection.

24. Section 2(1)(e) of the Arbitration and Conciliation Act defines "Court" as follows:

> "**2(1)(e). 'Court' means**—
>
> (i) in the case of an arbitration other than international commercial arbitration, the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject matter of the arbitration if the same had been the subject matter of a suit…"

25. The expression used by the Legislature is "subject matter of the arbitration" and not "subject matter of the suit". The distinction between these expressions has been considered by the Supreme Court.

26. Section 20 of the Arbitration and Conciliation Act provides as under:

> "**20. Place of arbitration**.—
>
> (1) The parties are free to agree on the place of arbitration.
>
> (2) Failing any agreement referred to in sub-section (1), the place of arbitration shall be determined by the Arbitral Tribunal having regard to the circumstances of the case, including the convenience of the parties.
>
> (3) Notwithstanding sub-section (1) or sub-section (2), the Arbitral Tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of documents, goods or other property."

27. A plain reading of Section 20 shows that the Legislature has distinguished between the "place of arbitration" agreed by the parties and the place where hearings may be conducted for convenience. This distinction is well settled by decisions of the Supreme Court.

28. Section 42 of the Arbitration and Conciliation Act has relevance. It provides that where with respect to an arbitration agreement any application under Part I has been made in a Court, that Court alone shall have jurisdiction over the arbitral proceedings and all subsequent applications arising out of that agreement. Thus, before Section 42 can operate, it must be found that the Court before which the first application is instituted is a Court having jurisdiction under the Act.

29. The constitutional bench decision of the Supreme Court in *Bharat Aluminium Company v. Kaiser Aluminium Technical Services Inc.*, (2012) 9 SCC 552 (BALCO), explained the concept of seat of arbitration. The Supreme Court held that the seat of arbitration is the "centre of gravity" of arbitral proceedings. The Court observed that while hearings may take place at different locations, such places do not necessarily become the seat of arbitration. The distinction between "seat" and "venue" is important to arbitration law.

30. The Supreme Court in *BBR (India) Private Limited*, after considering BALCO, held that the seat of arbitration determines the Court exercising supervisory jurisdiction over the arbitral proceedings. The Court observed:

> "The expression 'seat of arbitration' is the centre of gravity in arbitration. However, this does not mean that all arbitration proceedings must take place at the seat. The arbitrators at times hold meetings at more convenient locations."

31. The Supreme Court explained that the expression "Court" in Section 2(1)(e) cannot be understood independent of Section 20 and that the statutory provisions must be read harmoniously.

32. In paragraph 16 of the said judgment, the Supreme Court referred to its decision in *BGS SGS Soma JV* and observed that the expression "subject matter of arbitration" in Section 2(1)(e) should not be confused with the expression "subject matter of the suit". The purpose of Section 2(1)(e) is to identify the Court exercising supervisory jurisdiction over arbitral proceedings. The Court observed that Section 20 of the Arbitration and Conciliation Act becomes determinative while deciding the question relating to the seat of arbitration. The decision in *BGS SGS Soma JV* examined the scheme in detail. The Supreme Court held that Section 20 gives freedom to the parties to designate the seat of arbitration. Once the parties choose the seat, such choice becomes equivalent to an exclusive jurisdiction clause. The Court exercising jurisdiction over the seat exercises supervisory jurisdiction over the arbitral proceedings.

33. Paragraph 38 of *BGS SGS Soma* extracted in *BBR (India)* reads as under:

> "Where parties have selected the seat of arbitration in their agreement, such selection would then amount to an exclusive jurisdiction clause, as the parties have now indicated that the courts at the seat would alone have

> jurisdiction to entertain challenges against the arbitral award…"

34. The Supreme Court thus observed that once parties choose a juridical seat, the jurisdiction of the Courts at that place stands on a different footing from ordinary principles dealing with territorial jurisdiction under the Code of Civil Procedure. The Supreme Court held that situations may arise where the parties have not designated a seat of arbitration. In such cases, the Court explained that the provisions of Section 20(2) become relevant, and the surrounding circumstances have to be examined for identifying the juridical seat.

35. In *BBR (India)*, the Supreme Court explained that Section 20(1) confers freedom upon the parties to choose the place of arbitration. The judgment states that the parties are free to select a place having no connection whatsoever with the cause of action. Such freedom flows from the principle of party autonomy which forms the foundation of arbitration law.

36. The Supreme Court observed that Section 20(3) serves a different purpose. Hearings may be held at any location for recording evidence, hearing witnesses, consultation amongst members of the Tribunal or inspection of documents. Merely because hearings are held at a particular place, that place does not become the juridical seat unless the agreement or surrounding circumstances indicate such intention.

37. Another aspect considered in *BBR (India)* is the concept of concurrent jurisdiction noticed in paragraph 96 of BALCO. The

Supreme Court observed that BALCO recognizes two classes of Courts, namely, the Court where the cause of action arises and the Court where arbitration is seated. However, once the parties designate the seat of arbitration, the Courts at the seat alone exercise supervisory jurisdiction over arbitral proceedings. The existence of cause of action elsewhere loses significance so far as supervisory jurisdiction under the Arbitration and Conciliation Act is concerned.

38. The Supreme Court considered the principle laid down in *Indus Mobile Distribution Private Limited v. Datawind Innovations Private Limited*, (2017) 7 SCC 678, that the moment the parties designate a seat of arbitration, such designation becomes akin to an exclusive jurisdiction clause. Consequently, the Courts situated at the seat exercise jurisdiction under the Arbitration and Conciliation Act in relation to arbitral proceedings.

39. Paragraph 82 of *BGS SGS Soma*, has been approved in *BBR (India)*. The Supreme Court held that where the arbitration clause merely states that arbitration proceedings "shall be held" at a particular place, such place becomes the juridical seat unless there are contrary indications showing that the parties intended it to be a convenient venue. However, where the agreement merely permits meetings or hearings at different places for convenience, such locations remain venues and do not become the seat of arbitration.

40. These authorities lay down certain well settled propositions. Firstly, the seat of arbitration is the juridical centre of arbitral proceedings. Secondly, the seat is distinct from the venue of hearings. Thirdly, where the parties have designated the seat, the Courts at that place exercise supervisory jurisdiction. Fourthly, where the seat has not been designated, the Court must ascertain it from the arbitration agreement and surrounding circumstances by applying Section 20 of the Arbitration and Conciliation Act. Lastly, only after the seat cannot be ascertained would it become necessary to examine other factors recognized under the Act.

41. The respondents have relied upon these authorities to contend that the registered office of the partnership being situated at New Delhi and the books of account being maintained there, Mumbai cannot become the seat of arbitration merely because some partnership properties are situated within Mumbai. According to them, the seat must remain fixed. The petitioner submits that the Partnership Deed does not designate any seat of arbitration and, therefore, the surrounding circumstances including the place where the partnership business is carried on and where the disputes have arisen become relevant.

42. In my prima facie opinion, the provisions and the decisions referred to above establish the legal principles governing the concept of seat, venue and supervisory jurisdiction. However, these authorities do not conclude the present controversy. Before deciding whether this Court possesses territorial jurisdiction, it is necessary to examine whether Mumbai can be regarded as the juridical seat of arbitration or whether the question must be determined by applying the principles governing accrual of cause of action.

43. Having considered the statutory scheme relating to the concept of "Court", "seat" and "venue", it becomes necessary to examine the submission advanced by both sides regarding territorial jurisdiction based upon the cause of action. According to the petitioner, assuming that the seat of arbitration is not specified in the Partnership Deed, this Court would possess territorial jurisdiction because parts of the cause of action have arisen within Mumbai. The respondents submit that the dispute concerns dissolution of partnership and rendition of accounts, the registered office of the firm is at Delhi, the books of account are maintained there, and therefore this Court cannot assume jurisdiction merely because some of the partnership assets are situated in Mumbai.

44. The expression "cause of action" has not been defined in the Code of Civil Procedure. However, its meaning has been explained by prcedents. In *Rattan Singh Associates (P) Ltd. v. Gill Power Generation Co. (P) Ltd.*, 2007 SCC OnLine Del 19, after considering several judgments of the Supreme Court, the Delhi High Court in para 16 observed:

> "In civil proceedings, 'cause of action' is understood to mean every fact, which, if traversed, would be necessary for the plaintiff to prove in order to support his right to the judgment of the court. It is that bundle of facts which, taken together with the applicable law, entitles the plaintiff to relief against the defendant."

45. Thus, every fact pleaded does not become part of the cause of action. Only those facts which are necessary to obtain the relief constitute the cause of action.

46. The Supreme Court in *Union of India v. Adani Exports Ltd.*, (2002) 1 SCC 567, while dealing with territorial jurisdiction, observed that each and every fact pleaded in a petition does not confer jurisdiction. Only those facts which have a direct nexus with the dispute are relevant. The Supreme Court observed in para 17:

> "Each and every fact pleaded by the respondents ... does not ipso facto lead to the conclusion that those facts give rise to a cause of action ... Facts which have no bearing with the lis or the dispute involved in the case, do not give rise to a cause of action."

47. Therefore, while considering territorial jurisdiction, the Court must separate material facts from incidental facts.

48. Similar observations were made in *State of Rajasthan v. Swaika Properties*, (1985) 3 SCC 217, wherein service of acquisition notice at Calcutta was held insufficient to confer jurisdiction upon the Calcutta High Court because the acquisition proceedings related to land situated in Rajasthan. In *National Textile Corporation Ltd. v. Haribox Swalram*, (2004) 9 SCC 786, the Supreme Court held that carrying on business or receiving correspondence at a particular place does not constitute an integral part of the cause of action.

49. In *Oil and Natural Gas Commission v. Utpal Kumar Basu*, (1994) 4 SCC 711, the Supreme Court deprecated attempts to invoke jurisdiction on the basis of facts having a remote connection with the dispute. The Court held that reading a tender notice, submitting an offer or sending representations from a particular place would not constitute integral parts of the cause of action where the contract was to be considered, awarded and performed elsewhere. The Supreme Court observed that Courts should guard against assumption of jurisdiction merely because insignificant event has taken place within their territorial limits, as such practice encourages forum shopping.

50. The Delhi High Court in *Engineering Projects (India) Ltd. v. Greater Noida Industrial Development Authority*, 2004 SCC OnLine Del 546, after analyzing *Patel Roadways Ltd.*, *Utpal Kumar Basu*, *South East Asia Shipping Co.* and other judgments, held that where more than one Court may possess jurisdiction, preference should be given to the Court where the cause of action has substantially arisen. The Court observed that such an approach minimises litigation expenses and discourages forum shopping.

51. In the same judgment, the Delhi High Court relied upon the Division Bench decision in *Sector Twenty One Owners Welfare Association v. Air Force Naval Housing Board*, (1997) 65 DLT 81, and observed that a insignificant part of the cause of action is not sufficient to confer jurisdiction. What is relevant is the place where the substantial controversy has arisen.

52. The principle was summarised in *Rattan Singh Associates*, wherein the Delhi High Court held that while examining an objection regarding territorial jurisdiction, the Court must consider the pleadings as they stand without entering into their truthfulness, identify the facts having nexus with the controversy and determine whether facts have arisen within its territorial limits. The Court observed that even where jurisdiction exists, the doctrine of forum convenience may justify refusal to entertain the proceedings if another Court has a much closer connection with the dispute.

53. The respondents have placed reliance upon these authorities. According to them, the registered office of respondent No.1 partnership firm is situated at New Delhi. The books of account are maintained there. The alleged retirement from partnership concerns settlement of partnership rights and accounts. Therefore, they submit that the principal cause of action cannot be shifted to Mumbai merely because some partnership properties happen to be situated there. The petitioner has distinguished these authorities by contending that the present dispute is not merely about settlement of accounts. According to the petitioner, the relief sought in the present petition is protection against dispossession from partnership properties situated in Mumbai, restraint against prosecution of eviction proceedings pending before the Small Causes Court at Mumbai and protection of partnership assets located within the jurisdiction of this Court. It is therefore argued that the threatened injury has arisen within Mumbai and constitutes an integral part of the present cause of action.

54. At this stage, it becomes necessary to notice the decision in *Patel Roadways Ltd.*. The Supreme Court held that where a corporation has a subordinate office at the place where the cause of action has arisen, jurisdiction lies before the Court having jurisdiction over that place rather than the place where the principal office is situated. The Supreme Court observed in para 13 as under:

> "It would be a great hardship if, in spite of the corporation having a subordinate office at the place where the cause of action arises ... such plaintiff is compelled to travel to the place where the corporation has its principal place."

55. The judgment holds that the place where the substantial cause of action arises has more importance than the location of the principal office.

56. The petitioner relies upon the aforesaid principle to submit that although the registered office of respondent No.1 is situated at Delhi, the substantial business activities in recent years have been carried out from Mumbai, the partnership properties are situated at Mumbai, eviction proceedings have been instituted before the Mumbai Court and the dispossession is also sought to be implemented within Mumbai. According to the petitioner, these facts constitute material parts of the cause of action. The respondents contend that the dispute concerns retirement from partnership, dissolution of partnership and settlement of accounts. According to them, the mere existence of immovable properties in Mumbai cannot alter the nature of the dispute. They submit that the authorities relied upon by the petitioner recognize that incidental facts cannot determine territorial jurisdiction.

57. Prima facie, neither of these submissions can be accepted. The authorities discussed above establish that territorial jurisdiction cannot be determined either looking at the place where immovable properties are situated or merely by referring to the registered office of the partnership. Jurisdiction cannot be assumed solely because eviction proceedings are pending before a

Court situated within a particular territory. What is required is identification of material facts which constitute the foundation of the relief sought under Section 9 of the Arbitration and Conciliation Act.

58. The reliefs claimed in the petition are not confined to rendition of accounts or dissolution of partnership. The petitioner seeks restraint against prosecution of three eviction suits pending before the Small Causes Court at Mumbai, seeks protection against dispossession from partnership premises situated at Mumbai, seeks restraint against alienation of those partnership assets and seeks preservation of the status of the partnership pending arbitral proceedings. Whether such reliefs can be granted is a separate question. However, for the purpose of examining territorial jurisdiction, these pleadings constitute relevant facts which cannot be brushed aside as insignificant.

59. The respondents are justified in contending that the Court cannot ignore the nature of the dispute. The allegations regarding retirement, reconstitution of the partnership, settlement of accounts and continuance of partnership rights form an part of the controversy. These aspects have bearing upon the determination of jurisdiction and cannot be excluded merely because the petitioner has also sought protection of immovable properties situated within Mumbai.

60. Thus, the authorities relied upon by both sides do not lay down conflicting principles. They hold that territorial jurisdiction depends upon identification of the dispute, the material facts constituting the cause of action and the statutory scheme. The application of these principles to disputes arising out of partnership rights and partnership property requires separate examination, particularly in light of the law declared in *Addanki Narayanappa* , *Firm Ashok Traders* and *Ratan Lalchandani* . Those decisions shall therefore be considered while examining the nature of the dispute and its effect upon the territorial jurisdiction.

61. Having considered the principles governing territorial jurisdiction, it now becomes necessary to examine the nature of the present dispute. The respondents have contended that the controversy relates to dissolution of partnership, retirement of a partner and settlement of accounts. According to them, such disputes cannot be treated as disputes relating to immovable property merely because the assets of the partnership include immovable properties situated at Mumbai. The petitioner submits that, protection of partnership assets situated in Mumbai and prevention of dispossession from those properties constitute an essential part of the dispute.

62. The legal position relating to the nature of partnership property stands covered by the decision of the Supreme Court in *Addanki Narayanappa*. After examining the provisions of the Partnership Act, particularly Sections 14, 15, 29, 32, 37, and 48, the Supreme Court in para 4 held:

> "Whatever may be the character of the property which is brought in by the partners when the partnership is formed or which may be acquired in the course of the business of the partnership, it becomes the property of the firm and what a

> partner is entitled to is his share of profits... and upon dissolution of the partnership to a share in the money representing the value of the property."

63. The Court further observed:

> "During the subsistence of the partnership, however, no partner can deal with any portion of the property as his own. Nor can he assign his interest in a specific item of the partnership property to anyone."

64. These observations make it clear that though the partnership assets may consist of immovable property, no partner possesses right over any asset belonging to the firm. His right during the continuance of the partnership is of participation in the business and receipt of his share in the profits. Upon retirement or dissolution, his entitlement is to receive the value of his share after settlement of accounts in accordance with Section 48 of the Partnership Act.

65. Relying upon the aforesaid principles, the respondents submitted that the present dispute cannot be held as a dispute concerning immovable property. According to them, since the petitioner has issued a notice seeking dissolution of the partnership, the dispute concerns settlement of partnership rights and accounts. Prima facie, there is force in this submission. The notice invoking arbitration seeks dissolution of the partnership and settlement of the rights. However, that does not conclude the matter. The Court cannot ignore the actual reliefs sought in the present petition. The petitioner has not approached this Court seeking declaration of title to the flats situated at Mumbai. Neither has the petitioner sought partition nor any decree for possession of immovable property. The reliefs claimed are to restrain prosecution of eviction proceedings, preserve the partnership assets and maintain the existing state of affairs till the arbitral disputes are adjudicated.

66. In this context, the decision of the Supreme Court in *Firm Ashok Traders*, assumes significance. The Supreme Court held that proceedings under Section 9 are not suits. The Court in para 13 observed:

> "The relief sought for in an application under Section 9 of the A&C Act is neither in a suit nor a right arising from a contract. The right arising from the partnership deed or conferred by the Partnership Act is being enforced in the Arbitral Tribunal; the court under Section 9 is only formulating interim measures so as to protect the right under adjudication before the Arbitral Tribunal from being frustrated."

67. The Supreme Court further held that the jurisdiction under Section 9 is available to a party to an arbitration agreement and is intended for protection of rights pending arbitral adjudication.

68. Thus, while the respondents are correct in submitting that the disputes relating to retirement, dissolution, and accounts will fall for adjudication before the Arbitral Tribunal, the present proceedings have a limited object. The Court is concerned with preservation of the subject matter of arbitration and with ensuring that the arbitral proceedings are not rendered meaningless.

69. The respondents have argued that the registered office of the partnership and the books of account are situated at Delhi. In support of this submission, reliance has been placed upon the Privy

Council decision in *Luckmee Chund*, wherein it was observed that in disputes relating to partnership accounts, the central place of business where the books are maintained furnishes the place where the cause of action arises. Reliance has been placed upon the decision of the Madhya Pradesh High Court in *Ratan Lalchandani*. In that case, the Court held that where the dispute concerned rendition of accounts, the place where the registered office of the dissolved firm was situated and where the books of account were maintained constituted an integral part of the cause of action. The Court further held that Section 16 of the Code of Civil Procedure would not apply because the dispute was not one seeking determination of rights in immovable property.

70. In my prima facie opinion, the principles laid down in *Ratan Lalchandani* support the respondents to the extent that disputes concerning dissolution and rendition of accounts have close connection with the place where the accounts are maintained. However, the factual situation before this Court is not identical. The petitioner has not merely sought rendition of accounts. The petitioner has also sought immediate protection against eviction proceedings instituted before the Small Causes Court at Mumbai and restraint against dealing with partnership assets situated within the territorial jurisdiction of this Court. Equally, the respondents cannot ignore that three eviction suits have been instituted before the Small Causes Court at Mumbai in relation to the premises forming part of the partnership assets. Whether those proceedings are maintainable, whether one partner can maintain such proceedings against another partner and whether such proceedings are barred by the arbitration agreement are issues which need not be decided at this stage. However, the pendency of those proceedings constitutes a material fact giving rise to the prayer for interim protection.

71. The petitioner has submitted that unless interim protection is granted, he may be dispossessed from the premises before the arbitral tribunal has an opportunity to examine the validity of his alleged retirement. If such dispossession were to take place and if the petitioner succeeds before the Arbitral Tribunal, restoration of the earlier position may become difficult. These allegations, whether proved or not, cannot be ignored while considering territorial jurisdiction under Section 9. The submission of the respondents that the registered office of the partnership is situated at Delhi and that the books of account are maintained there is also a relevant connecting factor. These facts have bearing upon disputes concerning dissolution, accounts, and settlement of partnership rights. Therefore, they cannot be brushed aside merely because the petitioner has relied upon the existence of partnership properties at Mumbai.

72. The correct position appears to be that the dispute has more than one angle. Certain aspects relating to maintenance of accounts and administration of the partnership are connected with Delhi. Equally, the reliefs sought in the present petition arise out of eviction proceedings instituted at Mumbai and concern preservation of assets situated within Mumbai.

73. In such circumstances, the question is whether the facts pleaded by the petitioner constitute a substantial part of the cause of action so as to confer jurisdiction upon this Court. As noticed earlier, *Engineering Projects*, *Rattan Singh Associates* and *Patel Roadways* hold that the Court must identify the material facts constituting the foundation of the relief claimed. The Court is not expected to ignore those facts merely because other facts have also arisen elsewhere. Prima facie, the reliefs claimed under Section 9 have nexus with the apprehension of dispossession from premises situated within Mumbai, the prosecution of eviction proceedings before the Small Causes Court at Mumbai and preservation of the assets located within this jurisdiction. They constitute foundation for invoking the jurisdiction under Section 9.

74. The respondents have relied upon *BBR (India) (P) Ltd.*, to contend that once the seat of arbitration is identified, the Courts exercising supervisory jurisdiction over the seat can entertain proceedings under the Arbitration and Conciliation Act. As already observed, the Partnership Deed in the present case does not designate the juridical seat of arbitration. The determination of seat remains one of the disputed questions. Therefore, at this prima facie stage, the Court cannot proceed upon the assumption that Delhi alone constitutes the seat of arbitration.

75. On an overall consideration of the pleadings, the statutory provisions and the authorities cited by both sides, I am prima facie satisfied that the petitioner has shown existence of material facts constituting a substantial part of the cause of action within the territorial jurisdiction of this Court. The reliefs claimed under

Section 9 have direct connection with proceedings pending before Courts in Mumbai and with properties situated within Mumbai. The existence of other factors at Delhi may become relevant while deciding the substantive arbitral disputes. However, they do not, at this stage, exclude the jurisdiction of this Court.

76. The preliminary objection regarding territorial jurisdiction can not be accepted at this stage. The same is kept open to be urged before the Arbitral Tribunal or at any other appropriate stage. For the purpose of deciding the present application under Section 9, I am satisfied that this Court possesses the territorial jurisdiction to examine the petition on merits. The contentions regarding the petitioner's retirement, validity of the reconstituted partnership and the entitlement to interim protection shall be examined separately.

77. It now becomes necessary to examine whether the petitioner has shown existence of a prima facie right which deserves interim protection. The foundation of the petitioner's case is that he continues to be a partner of respondent No.1 firm under the Reconstituted Partnership Deed dated 16 April 2014 holding 5% share therein. According to him, the respondents have falsely projected that he has retired from the partnership. The petitioner has relied upon the Partnership Deed, Form V and other documents to show his continuance as partner. The respondents dispute the same and contend that the petitioner is no longer a partner. Thus, the first issue which arise is whether there is any prima facie material showing lawful retirement of the petitioner from the partnership.

78. Respondent No.2 has not produced before this Court any undisputed Retirement Deed executed by the petitioner. It is not shown that there is any document bearing signature of the petitioner by which he agreed to retire from the partnership. The respondents have relied upon documents including the alleged Affidavit and Indemnity Bond. The petitioner alleges that they are fabricated. Whether those allegations are proved is a matter for evidence and cannot be finally examined in the present proceedings. Still the absence of a document recording retirement cannot be ignored.

79. The petitioner has submitted that assuming there was any retirement, no consideration was paid to him towards his 5% share. No accounts were settled. No balance sheet was prepared. No valuation of the partnership assets was undertaken. No distribution of assets or liabilities has been made. These submissions have bearing because retirement from partnership results in settlement of the partner's rights. The respondents have disputed these allegations, but no material showing such settlement has been pointed out.

80. The respondents argued that these questions pertain to merits and are required to be examined by the Arbitral Tribunal. There cannot be any disagreement with this submission. However, where the respondents rely upon the alleged retirement as foundation for filing eviction proceedings and reconstituting the partnership, this Court cannot ignore whether there exists some prima facie material supporting such retirement. At least at this stage, such examination becomes necessary for deciding whether interim protection should continue.

81. The legal character of partnership property has already been settled by the Supreme Court in *Addanki Narayanappa*. The Supreme Court in para 4 observed:

> "Whatever may be the character of the property which is brought in by the partners when the partnership is formed or which may be acquired in the course of the business of the partnership, it becomes the property of the firm."

82. The Court further held:

> "During the subsistence of the partnership, however, no partner can deal with any portion of the property as his own."

83. These observations show that partnership assets remain assets of the firm and not of any individual partner.

84. The Supreme Court has observed that what a partner is entitled to receive is not any immovable property but his share in the value of the assets after settlement of accounts. Therefore, the dispute regarding retirement cannot be decided merely by examining possession of one or more properties. It requires examination of the entire relationship and settlement of accounts. These are matters which fall within the jurisdiction of the Arbitral Tribunal.

85. Learned Senior Advocate for the respondents has rightly relied upon the aforesaid judgment to contend that the petitioner cannot claim exclusive ownership over any flat belonging to the partnership. Prima facie, I find substance in this submission. The petitioner has pleaded that the properties belong to the partnership firm. Therefore, his claim is not based upon exclusive ownership but upon his continuing status as partner and consequential right to participate in the partnership till his rights are determined. The respondents submitted that since the petitioner has issued notice seeking dissolution of the partnership, he cannot claim rights flowing from continuance of the partnership. Prima facie, this submission requires consideration. However, issuance of notice for dissolution does not establish that dissolution has taken effect or that the petitioner's rights stood extinguished. Until the consequences flowing from such notice are adjudicated, the relationship between the parties continues to remain disputed. Therefore, the notice of dissolution cannot conclude the controversy at this stage.

86. Another submission advanced by the petitioner is regarding breach of duties by respondent No.2. It is alleged that respondent No.2, while exercising control over the management and records of the partnership, has prepared documents showing retirement of the petitioner without his consent and has inducted respondent Nos.3 to 5 as partners. According to the petitioner, these acts amount to breach of trust reposed in respondent No.2.

87. Under the law of partnership, every partner occupies a position of confidence towards the other partners. The affairs of the partnership are required to be conducted with good faith. Where one partner controls the accounts and records of the firm, a duty arises to act fairly while dealing with the rights of the remaining partners. If allegations of fabrication of partnership records are established, such conduct may have legal consequences. Whether those allegations are correct is a matter of evidence. Nevertheless, they cannot be brushed aside at this stage.

88. The petitioner has challenged the Affidavit dated 18 February 2025, the Indemnity Bond of the same date and Form C dated 25 March 2025. It is his case that these documents were created only to give legitimacy to an alleged retirement which never occurred. The respondents dispute these allegations. Since authenticity of these documents is directly in issue, this Court cannot, at the stage of Section 9, record any conclusive finding regarding their genuineness. Such disputed questions require appreciation of evidence before the competent forum. However, one circumstance assumes significance. The petitioner has asserted that even his name has not been correctly reflected in the statutory documents relied upon by the respondents. If found correct, such circumstance may have evidentiary value while appreciating the genuineness of those documents. Equally, if the respondents explain the discrepancy, the petitioner's contention may fail. Therefore, at this stage, no final inference either way can be drawn.

89. The respondents submitted that disputes regarding retirement, dissolution, and accounts are arbitrable disputes and the Court exercising jurisdiction under Section 9 should avoid expressing any opinion on the merits. This submission deserves acceptance. The Supreme Court in *Firm Ashok Traders*, has held that the Court exercising jurisdiction under Section 9 does not adjudicate the substantive rights of the parties. It merely grants interim measures so that the rights which are to be determined by the Arbitral Tribunal are not made ineffective. Therefore, while considering the existence of a prima facie case, this Court is required to see whether the petitioner has produced material showing that the dispute raised by him is bona fide and requires preservation of the existing position till adjudication by the Arbitral Tribunal.

90. Prima facie, the Partnership Deed dated 16 April 2014, the statutory filings relied upon by the petitioner, the dispute regarding settlement of accounts, the allegations concerning fabrication of documents and the institution of subsequent proceedings founded upon the alleged retirement together create substantial questions requiring examination in arbitration. These questions cannot be rejected as frivolous at this stage.

91. Thus, I am of the prima facie view that the petitioner has succeeded in showing that serious disputes exist regarding his alleged retirement, his status as partner and the validity of the reconstitution of respondent No.1 firm. These disputes arise out of the Partnership Deed and fall within the scope of the arbitration agreement.

92. The next question is whether the petitioner has made out a case for grant of interim protection under Section 9 of the Arbitration and Conciliation Act. The petitioner has prayed that respondent Nos.1 to 5 should be restrained from prosecuting the eviction suits pending before the Small Causes Court and further prayed that this Court should stay the said proceedings and restrain the Small Causes Court from passing any interim or final order adverse to the petitioner till completion of the arbitral proceedings.

93. In my prima facie opinion, such relief cannot be granted. The eviction suits are pending before a Court of competent jurisdiction. Merely because disputes between the parties are covered by an arbitration agreement, this Court while exercising powers under Section 9 of the Arbitration and Conciliation Act cannot injunct another competent court from proceeding with matters pending before it.

94. The Arbitration and Conciliation Act provides interim measures for protection of the subject-matter of arbitration. It does not confer supervisory or appellate jurisdiction upon this Court over proceedings pending before another competent judicial forum. Granting an injunction against continuation of judicial proceedings before another Court or restraining that Court from passing orders would amount to interfering with the exercise of jurisdiction vested in that Court. Such relief is outside the scope of jurisdiction under Section 9 of the Arbitration and Conciliation Act.

95. The petitioner has submitted that the eviction suits are founded upon the respondents' assertion that he has retired from the partnership and that such assertion is fraudulent and forms the subject matter of arbitration. That circumstance does not authorise this Court to stay pending judicial proceedings. The validity of the respondents' case in those suits and all objections available to the petitioner can be raised before the Court where those proceedings are pending. Learned counsel for the petitioner has argued that continuation of the eviction suits may frustrate the arbitration proceedings. I am unable to accept this submission. The possibility that findings recorded in one proceeding may have bearing on another cannot justify an injunction against judicial proceedings pending before a competent Court. The legal remedies available before the Small Causes Court, as well as remedies available against any order passed therein, continue to remain open in accordance with law.

96. The further prayer seeking restraint against the Small Causes Court from passing any interim or final order adverse to the petitioner is even in nature. Such a direction cannot be issued in proceedings under Section 9. Every Court constituted under law must be permitted to exercise its jurisdiction independently. This Court cannot direct another judicial forum not to proceed with matters instituted before it or prohibit it from passing orders which it is empowered to pass. It is also relevant that the question whether the petitioner has retired from the partnership, whether the Affidavit and Indemnity Bond dated 18 February 2025 are genuine, and what consequences flow from the Partnership Deed are all matters which may arise before different forums. The pendency of arbitration does not render the eviction proceedings non-maintainable. Those questions can be urged before the concerned Court, and that Court shall decide them on their own merits. Therefore, although this Court has found that the disputes regarding the petitioner's alleged retirement and his partnership rights require adjudication in arbitration, it does not follow that respondent Nos.1 to 5 can be restrained from prosecuting the pending eviction suits or that the Small Causes Court can be prohibited from exercising jurisdiction vested in it. Consequently, prayer clauses (a) and (a-1) do not deserve to be granted and are accordingly rejected.

97. The petitioner has contended that one partner cannot treat another partner as a stranger and seek his eviction from premises belonging to the partnership by creating documents showing retirement. Whether this submission is correct is a matter which shall be examined by the Arbitral Tribunal and by the competent Court. However, the issue cannot be said to be free from doubt. It raises substantial questions requiring adjudication after parties lead evidence.

98. The Supreme Court in *Firm Ashok Traders*, explained the scope of Section 9. The Court held that proceedings under Section 9 are not intended to determine substantive rights. The Court grants interim measures so that the rights which are under adjudication before the Arbitral Tribunal are not frustrated. The Supreme Court in para 13 observed:

> "The court under Section 9 is only formulating interim measures so as to protect the right under adjudication before the Arbitral Tribunal from being frustrated."

99. This principle has direct application to the present case.

100. Another aspect cannot be ignored. The petitioner has invoked arbitration by issuing notice under Section 21 of the Arbitration and Conciliation Act. Thus, the present petition is not one where the applicant has approached the Court without showing any intention to commence arbitral proceedings. The statutory requirement noticed by the Supreme Court in *Firm Ashok Traders* and *Sundaram Finance Ltd. v. NEPC India Ltd.*, (1999) 2 SCC 479, that there must be a manifest intention to commence arbitration, appears prima facie to be satisfied.

101. The respondents argued that grant of injunction would amount to staying proceedings pending before another competent Court. According to them, such relief should not be granted. This submission deserves careful consideration. Undoubtedly, proceedings before another Court cannot lightly be interdicted. At the same time, where the institution of those proceedings forms part of the alleged breach of the arbitration agreement and where continuation of those proceedings may affect the subject matter of arbitration, the Court exercising powers under Section 9 cannot decline to examine whether interim protection is necessary.

102. The petitioner has submitted that if possession of the partnership premises is disturbed before the arbitral disputes are decided, restoration of the earlier position may become difficult even if the petitioner succeeds. The respondents, on the other hand, submit that monetary compensation would adequately protect the petitioner. At this stage, I am unable to agree with the respondents. The dispute is not confined to monetary claims. It concerns the petitioner's status as a partner, his participation in the affairs of the partnership and his claim regarding preservation of assets.

103. The respondents submitted that the petitioner has delayed approaching this Court. Prima facie, I do not find this submission sufficient to deny interim relief. The petitioner has explained that he came to know about the alleged documents subsequently and thereafter invoked arbitration and approached this Court. Whether there is any delay defeating the petitioner's claim is a matter which may be examined during final adjudication. At present, I do not find such delay to be of such magnitude as would disentitle the petitioner from seeking interim protection.

104. Balance of convenience also requires consideration. If interim protection is refused and the petitioner is successful before the Arbitral Tribunal, the consequences flowing from dispossession and further changes in the constitution of the partnership may become difficult to reverse. On the other hand, if limited interim protection is granted and the respondents succeed, the respondents would be at liberty to enforce their rights in accordance with law after conclusion of the arbitral proceedings. Therefore, at this stage, greater prejudice appears likely to be caused by refusal of interim protection.

105. The petitioner has prayed for restraint against alienation or creation of third party rights in the partnership assets. The respondents opposed this relief by submitting that the partnership business cannot be paralysed. Prima facie, there is substance in the concern expressed by the respondents. Any interim order should not interfere with the ordinary business activities of the partnership. However, preservation of the existing assets forming the subject matter of the dispute is also important. The interim protection has to be moulded in a manner which protects the subject matter of arbitration without preventing business activities.

106. The petitioner has further prayed for production of the disputed Affidavit and Indemnity Bond and for restraining respondent No.6 from acting upon those documents. Since authenticity of those documents is questioned, preservation of the original records may become necessary for adjudication before the Arbitral Tribunal.

107. On an overall assessment of the pleadings, the documents placed on record, the rival submissions and the legal principles discussed hereinabove, I am prima facie satisfied that the petitioner has established the existence of serious disputes requiring adjudication by the Arbitral Tribunal. The petitioner has also shown that refusal of interim protection at this stage may prejudice the arbitral proceedings. The balance of convenience presently leans in favour of preserving the existing position until the rights of the parties are determined through arbitration.

108. In view of the foregoing discussion and for the reasons recorded hereinabove, the following order is passed:

(i) The Arbitration Petition is partly allowed;

(ii) Pending the commencement and final disposal of the arbitral proceedings, respondent Nos.1 to 5, either by themselves or through their partners, servants, agents or any person claiming through or under them, are restrained from creating any third party rights, title or interest, or from selling, transferring, alienating, encumbering, or otherwise dealing with the following partnership assets;

(a) Flat No. A-502 at Krishna Regency, Datta Mandir Road, Vakola, Santacruz (East), Mumbai;

(b) Flat No. A-104 together with three stilt car parking spaces at Krishna Regency, Datta Mandir Road, Vakola, Santacruz (East), Mumbai;

(c) Flat No. C-42 at Park Avenue, R.T.O. Lane, Andheri (West), Mumbai;

(iii) Respondent No.6 shall preserve and shall not destroy, alter, replace or part with possession of the original Affidavit dated 18 February 2025, the original Indemnity Bond dated 18 February 2025 and all original records relating to the change in constitution of respondent No.1 firm based upon the said documents. Respondent No.6 shall produce the said original documents before the Arbitral Tribunal or before this Court, if so directed;

(iv) Respondent Nos.1 to 5 shall maintain complete accounts of the business of respondent No.1 firm in the ordinary course and shall preserve all books of account, statutory records and financial documents until further orders of the Arbitral Tribunal;

(v) The respondents shall not induct any further partner in respondent No.1 firm or effect any further change in the constitution of the partnership on the basis of the petitioner's alleged retirement, without prior leave of the Arbitral

Tribunal;

(vi) The observations made in this judgment are only prima facie in nature and are confined to the adjudication of the present petition under Section 9 of the Arbitration and Conciliation Act, 1996. The Arbitral Tribunal shall decide all issues on their own merits without being influenced by any observation contained in this order;

(vii) The petitioner shall take effective steps for constitution of the Arbitral Tribunal within a period of four weeks from today, if not already constituted;

(viii) In the event the petitioner fails to take effective steps for commencement of the arbitral proceedings within the aforesaid period, it shall be open to the respondents to apply for modification, variation, or vacation of the interim protection granted by this order;

(ix) The Arbitration Petition is accordingly disposed of in the above terms.

(x) There shall be no order as to costs.

(AMIT BORKAR, J.)