



March 2026

Interim relief under Section 9 of the Arbitration and Conciliation Act, 1996, available even after initiation of enforcement proceedings

In the case of *Osterreichischer Lloyd Seereederei (Cyprus) Limited vs. Victore Ships Private Limited*¹, the Bombay High Court (“**Bombay HC**”) clarified that interim protection under Section 9² of the Arbitration and Conciliation Act, 1996 (“**Arbitration Act**”) is availed even after the initiation of enforcement proceedings under Part II of the Arbitration Act.

The Bombay HC held that execution of domestic award under Part I of the Arbitration Act is materially different from enforcement of a foreign award. A foreign award before getting enforced under Section 49³ of the Arbitration Act needs to meet the conditions laid down under Section 47⁴ and Section 48⁵ of the Arbitration Act.

Brief facts

In the present case, Osterreichischer Lloyd Seereederei (Cyprus) Limited (“**Petitioner**”) was the award holder in a foreign award. The Petitioner filed a rolled-up application for enforcement and execution of the foreign award under Part II of the Arbitration Act. Simultaneously, it approached the Bombay HC under section 9 of the Arbitration Act to secure the amount awarded.

Victore Ships Private Limited i.e., the respondent, contended that the relief under Section 9 of the Arbitration Act cannot be sought after the Petitioner has initiated proceedings under Part II of the Arbitration Act.

Issue

Whether interim relief under Section 9 of the Arbitration Act can be availed post initiation of enforcement proceedings under Part II of the Arbitration Act?

¹ Commercial Arbitration Petition No. 398 of 2025 (decided on March 10, 2026)

² In terms of Section 9 of the Arbitration Act, parties can apply to seek interim measures such as injunctions, asset preservation, or guardian appointments, before, during, or after arbitration but prior to enforcement of the arbitral award.

³ In terms of Section 49 of the Arbitration Act, a foreign award is deemed to be a decree when courts are satisfied that it is enforceable in accordance with Part II, Chapter I of the Arbitration Act.

⁴ In terms of Section 47 of the Arbitration Act, a party applying for enforcement of a foreign award must provide as evidence, the original or authenticated award, the arbitration agreement, proof of its foreign status, and certified English translations, if applicable.

⁵ In terms of Section 48 of the Arbitration Act, a foreign award enforcement can be refused if the opposing party proves procedural defects, such as legal incapacity, invalid agreements, lack of proper notice, or if the award exceeds the scope of the arbitration. It may also be refused on grounds of non-arbitrability under Indian law or contradiction to public policy of India.

Findings and analysis

The Bombay HC allowed the interim relief sought under Section 9 of the Arbitration Act to secure the amount awarded on the following grounds:

1. Section 9 of the Arbitration Act is applicable to proceedings under Part II of the Arbitration Act by virtue of Section 2(2) of the Arbitration Act. However, the legislative scheme permits a party to approach the court under Section 9 of the Arbitration Act only *“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 of the Arbitration Act”*. No reference to enforcement proceedings under Part II of the Arbitration Act is stipulated herein;
2. there is a fundamental difference between enforcement of a foreign award under Section 46 of the Arbitration Act and enforcement of a domestic award under Section 36 of the Arbitration Act;
3. for a foreign award to be enforceable, it first ought to pass through the prism of challenges stipulated under Section 48 of the Arbitration Act. Thereafter, the award creditor will apply for enforcement with evidence as stipulated under Section 47 of the Arbitration Act, before the foreign award can be formally recognised as a decree. Only then, does a foreign award become enforceable under Section 49 of the Arbitration Act and attain the status of a decree;
4. *Per Contra*, a domestic award attains the status of a decree upon the expiry of the period of challenge under Section 34 of the Arbitration Act, provided no challenge is filed or rejected against under Section 34 of the Arbitration Act, provided there is no stay on the operation of the arbitral award;
5. accordingly, the Bombay HC held that importing the scheme applicable to domestic awards under Section 9 of the Arbitration Act into the framework governing foreign awards is untenable. Considering a clubbed petition is filed by the Petitioner for both recognition and execution, the foreign award will become enforceable only after it is duly recognised; and
6. mere filing of a petition under Part II of the Arbitration Act does not connote ‘enforcement’. Therefore, interim reliefs under Section 9 of the Arbitration Act can be sought with regards the foreign award at this juncture.

Conclusion

Given that the statutory satisfaction for a foreign award is very different from domestic award, a foreign award runs the risk of being dissipated by award debtor. The Bombay HC’s findings significantly strengthen the position of foreign award creditors. This decision allows foreign award creditors an additional layer of security until a foreign award becomes enforceable in India. Considering that the statute is silent on availing interim reliefs under Section 9 of the Arbitration Act for a foreign award, the instant decision has set an important precedent in facilitating proceedings under Part II of the Arbitration Act.

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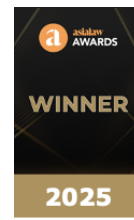
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