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Supreme Court of India holds that an unsuccessful party in an arbitration is entitled to seek relief under Section 9 of the Arbitration and Conciliation Act, 1996 at the post award stage

The Supreme Court of India (“**Supreme Court**”), has in the matter of *Home Care Retail Marts Private Limited vs. Haresh N. Sanghavi*¹ laid down that Section 9² of the Arbitration and Conciliation Act, 1996 (“**Arbitration Act**”) may be invoked by any party to the arbitration right until the judicial process has reached its culmination and that Section 9 of the Arbitration Act does not draw a distinction between a successful and an unsuccessful party. In doing so, the Supreme Court has answered a substantial question of law arising in a batch of special leave petitions filed on the basis of conflicting judgments rendered by different High Courts.

Substantial question of law

Whether a petition under Section 9 of the Arbitration Act at the post award stage by a party that has lost in the arbitral proceedings and has no enforceable award in its favour, is maintainable in law?

Findings and analysis

The Supreme Court held as follows:

1. Section 9 of the Arbitration Act commences with the expression ‘a party’ which is defined under Section 2 (h) of the Arbitration Act as ‘a party to an arbitration agreement’. Neither Section 2 (h) nor Section 9 of the Arbitration Act draws any distinction between a successful and an unsuccessful party. The statutory framework does not prescribe any qualification that would confine the availability of post award relief under Section 9 of the Arbitration Act solely to award holders. Therefore, the meaning of the expression ‘a party’ under Section 9 of the Arbitration Act cannot be contextually modulated or varied depending upon the outcome of the arbitral proceedings.
2. The literal interpretation of Section 9 of the Arbitration Act indicates that the right to seek interim relief is available to any party to an arbitration agreement before or during the arbitration proceedings or any time after the award is delivered but before it is enforced. The legislature has not imposed any restrictions on the category of parties entitled to seek interim relief under Section 9 of the Arbitration Act.

¹ 2026 SCC OnLine SC 670 (decided on April 24, 2026)

² Section 9 of the Arbitration Act sets out the powers of a court to grant interim relief before or during the arbitral proceedings or after the passing of the arbitral award.

3. The mere availability of recourse to a challenge under Section 34³ or a stay under Section 36 (2)⁴ of the Arbitration Act cannot operate as a bar to seek protection under Section 9 of the Arbitration Act. If the unsuccessful party is denied interim relief under Section 9 of the Arbitration Act, it would leave such a party remediless. Therefore, the distinction between a successful party and an unsuccessful party cannot govern access to the remedy under Section 9 of the Arbitration Act.
4. The decisions in *Dirk India Private Limited vs. Maharashtra State Electricity Co. Limited*⁵, *Nussli Switzerland Limited vs. Organizing Committee Commonwealth Games 2010*⁶, *Padma Mahadev vs. Sierra Constructions Private Limited*⁷ and *A. Chidambaram vs. S. Rajagopal*⁸ holding that an unsuccessful party, post award, is disentitled to seek interim relief under Section 9 of the Arbitration Act are untenable. In *Gayatri Balasamy vs. ISG Novasoft Technologies Limited*,⁹ the Supreme Court held that courts exercising jurisdiction under Section 34 and Section 37¹⁰ of the Arbitration Act have the power to modify the award in certain circumstances. There is no question of the courts restricting the ambit of Section 9.
5. The principle of contextual or purposive interpretation cannot be invoked where the statutory language admits only one meaning. The rule of purposive construction is resorted to only when the provision leads to manifest injustice or absurdity, which is not met in the present case.
6. The threshold for grant of interim relief in the case of an unsuccessful party seeking post award relief under Section 9 of the Arbitration Act, will be higher. The grant of relief under Section 9 will be guided by well-established principles, namely, the existence of a *prima facie* case, balance of convenience and likelihood of irreparable harm and injury. In rare and compelling cases, allowing the unsuccessful party to invoke Section 9 would prevent irreparable prejudice and preserve the efficacy of the challenge proceedings.

Conclusion

This judgment has far-reaching consequences given that different High Courts had adopted differing views and had in fact, prevented award debtors from availing relief under Section 9 of the Arbitration Act. The judgment harmonises the provisions of Section 9 and Section 34 of the Arbitration Act and recognises the importance of interim relief to award debtors who may be able to successfully challenge an arbitral award.

³ Section 34 of the Arbitration Act provides for a limited recourse to challenge an arbitral award before a court on certain limited grounds.

⁴ Section 36 (2) of the Arbitration Act provides for the filing of an application to seek a stay on the enforcement of an award.

⁵ 2013 SCC OnLine Bom 481

⁶ 2014 SCC OnLine Del 4834

⁷ COMAP No. 2 of 2021

⁸ OA No. 843 of 2024

⁹ 2025 SCC OnLine SC 986

¹⁰ Section 37 of the Arbitration Act deals with orders against which an appeal may be filed.

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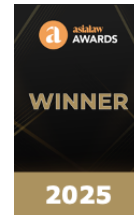
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