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Delhi High Court reaffirms that terminated Share Purchase Agreements cannot be revived by invoking Section 9 for interim reliefs

In a recent ruling, the Hon'ble Delhi High Court (“**Delhi HC**”) in *JLT Energy 9 SAS vs. Hindustan Cleanenergy Limited and Ors.*¹, examined whether interim protection under Section 9² of the Arbitration and Conciliation Act, 1996 (“**Arbitration Act**”) in the nature of specific performance can be granted where a commercial agreement such as a Share Purchase Agreement (“**SPA**”) stood terminated automatically upon non-fulfilment of contractual Conditions Precedent (“**CPs**”). The Delhi HC held that where parties have expressly agreed that failure to satisfy CPs within the stipulated timeline would result in automatic termination of the contract, Courts cannot grant interim relief to effectively revive or enforce such terminated agreements.

Brief facts

JLT Energy 9 SAS (“**Purchaser**”), a French renewable energy company, entered into 2 (two) SPAs with Hindustan Cleanenergy Limited and Peridot Power Ventures Private Limited for the acquisition of 100% shares in 2 (two) companies that operate solar power projects in Tamil Nadu and Bihar.

The SPAs formed part of a composite transaction, with the closing of the Tamil Nadu SPA constituting a condition precedent to the closing of the Bihar SPA, indicating the intrinsic linkage between the 2 (two) SPAs. Under the contractual framework, the parties were required to fulfil certain CPs and pre-closing actions before the Closing Long Stop Date (“**CLSD**”). One such CP required the conversion of the project land in Tamil Nadu from agricultural to non-agricultural use (“**NA Conversion Condition**”). The SPAs also provided that any failure to fulfil the CPs would automatically terminate the agreements.

Following certain disputes between the parties in relation to the NA Conversion Condition, the Purchaser initiated emergency arbitration proceedings before the Singapore International Arbitration Centre (“**SIAC**”). The emergency arbitrator granted an interim injunction restraining the Sellers from creating third-party rights over the assets and securities forming the subject matter of the transaction except as permitted under the SPAs. Thereafter, the Purchaser approached the Delhi HC under Section 9 of the Arbitration Act and sought a prohibitory injunction against the Sellers to effectively enforce the relief granted by the emergency arbitrator.

However, the learned Single Judge, *vide* the Order dated January 6, 2026 (“**Impugned Order**”), dismissed the petition on *inter alia* the ground that the SPAs had automatically terminated because the parties did not fulfil the CPs within

¹ 2026:DHC:3034-DB, (decided on April 15, 2026)

² Section 9 of the Arbitration Act empowers a court to grant interim measures such as injunctions, asset preservation, or guardian appointments, before, during, or after arbitration but prior to enforcement of the arbitral award.

the CLSD and did not extend the CLSD. The learned Single Judge held that issuing an injunction would amount to reviving the terminated SPA, contrary to the parties' commercial understanding. Aggrieved by the dismissal, the Purchaser preferred an appeal under Section 37 of the Arbitration Act to the Appellate Bench.

Issues

The Delhi HC considered whether the Purchaser is entitled to a prohibitory injunction restraining the Sellers from creating any third-party rights or interests in assets and securities except as provided in the SPAs?

Findings and analysis

The Delhi HC observed that a court exercising jurisdiction under Section 37³ of the Arbitration Act has a narrow and circumscribed scope. An appeal under Section 37 of the Arbitration Act does not contemplate a rehearing on merits, nor does it permit re-appreciation of facts as if exercising original jurisdiction, unless the appellant demonstrates that the first appeal court's order is arbitrary, perverse, manifestly illegal, or in complete disregard of settled principles governing the grant or refusal of interim measures. On that premise, the Delhi HC examined the Impugned Order and rendered the following findings:

1. **Parties are bound by the contractual terms agreed to at the time of contracting and courts cannot dilute the same:** The central plank of the Purchaser's challenge rested on the assertion that the NA Conversion Condition, though originally stipulated as a CP, had been converted into a Condition Subsequent ("CS"). The Purchaser contended that this conversion arose from the parties' conduct and from a mutual understanding reflected in *inter se* email correspondence and an unsigned draft amendment circulated between them. However, the Delhi HC held that the SPAs expressly required all amendments, modifications, waivers, or relaxations to be in writing and executed by all parties. The Purchaser relied on email correspondence and an unexecuted draft amendment to argue that the parties had agreed to convert the NA Conversion Condition into a CS and extend the CLSD. The Delhi HC rejected this contention, holding that parties cannot disregard contractual provisions prescribing a specific mode for amendment merely on the basis of informal communications.
2. **Automatic termination clauses operate according to their terms and do not depend upon attribution of fault:** The Delhi HC noted that the SPAs are self-executing in nature. The SPAs expressly provided that failure to fulfil the CPs within the CLSD would result in automatic termination without any further act, election, or declaration by either party. Once triggered, such automatic termination extinguishes the contractual relationship in all practical aspects. The Purchaser sought to avoid this consequence by attributing the non-fulfilment of the CP to lack of best efforts, delay, and dishonest conduct on the part of the Sellers. The Delhi HC rejected this argument on the following grounds: (a) the SPAs did not cast an exclusive or absolute obligation upon the Seller to secure such conversion within a fixed timeline, beyond reasonable co-operation; (b) the material on record did not demonstrate any deliberate or attributable delay that could constitute a breach of contract, as the NA Conversion Condition depended on statutory authorities for which the Seller could not be faulted; (c) the allegation of dishonest conduct was unsupported by evidence and conspicuously absent from the foundational pleadings; and (d) the Purchaser's attempt to attribute the non-fulfilment of the NA Conversion Condition exclusively to the Sellers overlooked the Purchaser's own contractual obligations, as nothing prevented the Purchaser from taking ownership of the process and proceeding towards closure. The Delhi HC concluded that the Purchaser's inaction cannot be recast as a breach by the Sellers.

³Under Section 37 of the Arbitration Act, a party may file an appeal only against specific orders enumerated therein. These include orders: (a) declining to refer parties to arbitration under Section 8 of the Arbitration Act; (b) granting or refusing interim measures under Section 9 of the Arbitration Act; (c) setting aside or declining to set aside an arbitral award under Section 34 of the Arbitration Act; (d) upholding a jurisdictional objection or excess of authority under Section 16(2) or 16(3) of the Arbitration Act; or (e) granting or refusing interim relief under Section 17 of the Arbitration Act. The provision expressly bars any second appeal from orders passed under Section 37 of the Arbitration Act, while preserving the right to approach the Supreme Court of India where otherwise available in law.

Accordingly, the Delhi HC concluded that the automatic termination clause does not predicate termination upon attribution of fault.

3. **Specific performance and statutory approvals:** The Delhi HC held that even assuming the SPAs had subsisted, the relief sought by the Purchaser would in effect amount to enforcing contractual obligations contingent upon grant of statutory approval.

When a contract's performance depends on a statutory authority's permission and such permission is not obtained, the court cannot grant interim protection that presumes the approval will be forthcoming or indirectly compels steps leading to such approval. The Delhi HC relied on the Supreme Court's judgment⁴ to hold that when a contract's performance requires statutory permission that has not been obtained, the contract cannot be specifically enforced. This principle applies *a fortiori* in the present case, where no consideration has been paid and the SPAs contain an automatic termination clause that has admittedly taken effect. The Delhi HC therefore concluded that the learned Single Judge was justified in refusing interim protection after finding that the SPAs had automatically terminated upon non-fulfilment of the CP within the CLSD.

4. **Emergency arbitrator orders do not bind courts exercising powers under Section 9 of the Arbitration Act:** The Purchaser contended that the learned Single Judge erred in not according due weight to the emergency order. The emergency order emanated from the parties' agreement to arbitrate under the SIAC Rules and derived its authority from those rules. However, the Delhi HC observed that the SPAs expressly provide for the agreement to be governed by Indian law and for the Courts at New Delhi to have exclusive jurisdiction, subject to arbitration. The Purchaser, having secured interim protection before the Emergency Arbitrator before SIAC, argued that the Delhi HC ought to have accorded substantial weight to the emergency arbitrator's order while pronouncing the Impugned Order. The Delhi HC observed that although parties may agree to institutional rules providing for emergency arbitration, the emergency arbitrator's power derives from the contractual framework between the parties, not from the Arbitration Act, and therefore does not bind the court under Section 9. The court must apply its own mind to the material on record and assess the prayer for interim relief in accordance with Indian law. The Delhi HC further noted that the emergency arbitrator granted relief at a preliminary stage on the basis of a 'reasonably arguable' case, while expressly recording that the determination rested on a limited evidentiary record. This meant the emergency award proceeded on a lower threshold tailored to the exigencies of emergency relief under the SIAC framework and was accompanied by explicit caveats as to its tentative nature. The Delhi HC therefore concluded that the emergency order, founded on a lower and provisional standard and rendered without the complete evidentiary record available before the court in the Section 9 proceedings, could not govern or dictate the outcome of the Purchaser's case.

Conclusion

The Delhi HC's decision reinforces the principle that courts will generally give effect to the contractual allocation of risk and consequences agreed between parties in a commercial contract. The judgment highlights that where parties expressly provide for automatic termination upon non-fulfilment of CP, courts are unlikely to grant interim relief that effectively revives an agreement that has ceased to subsist. The ruling also clarifies that emergency arbitrator orders, while relevant, do not bind courts exercising powers under Section 9 of the Arbitration Act, which must independently determine whether the statutory requirements for interim protection are satisfied. The decision therefore serves as an important reminder that courts are likely to strictly enforce terms and provisions that the parties have mutually agreed to and included in commercial agreements.

⁴ *Nand Kishore Lalbhai Mehta vs. New Era Fabrics*, (2015) 9 SCC 755

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This Prism is prepared by:



Varun Sriram
Partner



Varsha Srinivasan
Partner



Pratiksha Easwar
Associate



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