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

**Date of Decision: 18.02.2026**

+ O.M.P.(I) (COMM.) 68/2026, I.A. 4418/2026 (For Exemption),  
I.A. 4419/2026 (For Permission to filed Lengthy list of dates),  
& I.A. 4673/2026 (For Impleadment and other reliefs)

PAWAN GUPTA .....Petitioner

Through: Mr. Dayan Krishnan and Ms.  
Malvika Trivedi, Senior  
Advocates along with Mr.  
Harshit Khanduja, Mr.  
Himanshu Satija, Mr. Karan  
Khanna and Ms. Divya  
Narayanan, Advocates.

versus

KAMAL GUPTA AND ORS .....Respondents

Through: Ms. Swathi Sukumar, Senior  
Advocate along with Mr. S.  
Santanam Swaminadhan, Mr.  
Kartik Malhotra, Mr. Anindit  
Mandal, Mr. Ritik  
Raghuvanshi, and Ms. Rishika  
Aggarwal, Advocates for  
Respondent Nos. 1 to 7.  
Mr. Viraj R. Datar, Senior  
Advocate along with Mr.  
Srikant Singh, Advocate for  
Respondent Nos. 8 to 12.  
Ms. Jyoti Taneja and Ms.  
Muskan Puri, Advocates for  
Intervenor.

**CORAM:**  
**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN**  
**SHANKAR**

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**JUDGEMENT (ORAL)**



**HARISH VAIDYANATHAN SHANKAR, J.**

1. The present Petition has been filed under Section 9 of the **Arbitration and Conciliation Act, 1996**<sup>1</sup>, read with Section 151 of the Civil Procedure Code, 1908, seeking the following reliefs:

- a. pass an order restraining Respondent Nos. 1 to 7, and in particular Respondent No. 7 (“PPJPL”) acting through Respondent No. 1 or any person claiming through or under them, from granting or continuing any franchise / dealership / licence / authority / permission in favour of Respondent Nos. 8 to 13 (“M/s Durga Trading Company and its partners”) to use, operate under, or commercially exploit the trade name/trademarks/logos “PP Jewellers”, “PPJ”, “P.P.” and/or “PP” (with any prefix and/or suffix), or any mark deceptively similar thereto, pending disposal of the arbitral proceedings; AND
- b. pass an order restraining Respondent Nos. 1 to 7 from acting upon, implementing, enforcing, or giving effect to the Franchise Agreement dated 09.10.2025 (and/or any addendum, extension, modification, side letter or arrangement in furtherance thereof) executed/claimed to be executed in favour of Respondent Nos. 8 to 13, insofar as the same permits, recognises, or enables the use or commercial exploitation of the said trade name/trademarks/logos by Respondent Nos. 8 to 13, pending disposal of the arbitral proceedings; AND
- c. pass an order restraining Respondent Nos. 8 to 13 from, pursuant to or in furtherance of any franchise arrangement including the Franchise Agreement dated 09.10.2025, holding themselves out as an “authorised franchisee/outlet” or otherwise representing any association with the trade name/trademarks/logos “PP Jewellers”, “PPJ”, “P.P.” and/or “PP”, including through signage, advertisements, marketing material, invoices, brochures, exhibitions, or on digital/social media platforms, pending disposal of the arbitral proceedings; AND
- d. pass an order restraining Respondent Nos. 1 to 7 from directly or indirectly doing any act that would defeat the present petition, including by permitting use of the said trade name/trademarks/logos through any nominee, affiliate, associate, sister concern, successor entity, newly constituted firm/company, or any person acting in concert with Respondent Nos. 8 to 13, pending disposal of the arbitral

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<sup>1</sup> Act



proceedings; AND

- e. grant ad-interim reliefs in terms of prayers (a) to (d) above, pending notice and final disposal of the present petition; AND
- f. pass any other order(s) deemed fit and proper in the facts and circumstances of the present case.”

2. At the outset, learned Senior Counsel for the Respondents have raised a preliminary objection as to the maintainability of the present Petition in view of Section 9(3) of the Act, which provides as under:

“**9. Interim measures, etc., by Court.** —

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(3) Once the arbitral tribunal has been constituted, the Court shall not entertain an application under sub-section (1), unless the Court finds that circumstances exist which may not render the remedy provided under section 17 efficacious.”

3. Placing reliance on Section 9(3) of the Act, learned counsel for the Respondents have submitted that once the Arbitral Tribunal stands constituted, the Court can entertain a petition under Section 9(1) only if it is satisfied that the remedy available under Section 17 of the Act would not be efficacious.

4. It has been further contended by the learned Senior Counsel for the Respondents that the core dispute between the parties pertains to the bouquet of trademarks, which is directly and substantially in issue before the Arbitral Tribunal.

5. Learned Senior Counsel for the Respondents has also submitted that Respondent Nos. 8 to 12 derive their rights from the **Franchise Agreement dated 09.10.2025<sup>2</sup>**, executed between Respondent Nos. 7 and 8. Since Respondent No. 7 is also a party to the arbitration, any order passed against Respondent No. 7 would necessarily bind Respondent No. 8. On this basis, it has been argued that the present

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<sup>2</sup> Franchise Agreement



Petition is misconceived and not maintainable.

6. ***Per contra***, learned Senior Counsel for the Petitioner have submitted that the Court is empowered under Section 9 of the Act to grant interim measures even against third parties, though such power must be exercised sparingly and in exceptional circumstances. It has been contended that the present case discloses such exigent circumstances and therefore warrants the Court's intervention.

7. Learned Senior Counsel for the Petitioner further have relied upon Paragraph 99 of the Petition to submit that the gravamen of the dispute lies in the conduct of Respondent Nos. 8 to 12, who are not parties to the arbitration, and who are allegedly acting in a manner prejudicial to the subject matter of the arbitration, *namely*, the basket of trademarks claimed by the Petitioner and Respondent Nos. 1 to 7. It has contended by the learned Senior Counsel for the Petitioner that, in these circumstances, the present Petition constitutes the only efficacious remedy available to the Petitioner.

8. In support of the maintainability of the present Petition, learned Senior Counsel for the Petitioner have placed reliance on the judgment of a learned Single Judge of this Court in ***Blue Coast Infrastructure Development Pvt. Ltd. Vs. Blue Coast Hotels Ltd. and Another***<sup>3</sup>, particularly Paragraph Nos. 25 to 27, to contend that where relief is sought against third parties who are not amenable to the jurisdiction of the Arbitral Tribunal, the appropriate remedy lies under Section 9 of the Act. The relevant paragraphs of the said judgment are reproduced below:

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<sup>3</sup> 2020 SCC OnLine Del 1897



“25. Respondent No. 1, as noticed above, did not file its reply and has more or less taken a neutral stand. The question posed by Respondent No. 2 is the scope and sweep of Section 9 Proceedings qua a non-party and a non-signatory to an Arbitration Agreement. Bombay High Court in the case of *Girish Mulchand Mehta* (supra), relied upon by Respondent No. 2 itself, held as under:

“12. The next question is whether order of formulating the interim measures can be passed by the Court in exercise of powers under Section 9 of the Act only against a party to an Arbitration Agreement or Arbitration Proceedings. As is noticed earlier, the jurisdiction under Section 9 can be invoked only by a party to the Arbitration Agreement. Section 9, however, does not limit the jurisdiction of the Court to pass order of interim measures only against party to an Arbitration Agreement or Arbitration Proceedings; whereas the Court is free to exercise same power for making appropriate order against the party to the Petition under Section 9 of the Act as any proceedings before it. The fact that the order would affect the person who is not party to the Arbitration Agreement or Arbitration Proceedings does not affect the jurisdiction of the Court under Section 9 of the Act which is intended to pass interim measures of protection or preservation of the subject matter of the Arbitration Agreement.”

26. In *Gatx India Pvt. Ltd. v. Arshiya Rail Infrastructure Limited, 2015 VAD (Delhi) 190*, this Court again examined the legal position regarding the power of a Court under Section 9 of the Act to issue interim orders against third parties to the Arbitration. The Court clearly drew a distinction between Section 9 of the Act and Section 17 of the Act and the powers of the Court and an Arbitral Tribunal thereunder respectively. It was held that unlike Section 17 of the Act which specifically allows for measures to be directed only against parties to the Arbitration, there is nothing in Section 9 of the Act which restricts the power of a Court from passing orders against non-signatories to the Arbitration Agreement. The Court did notice that there was a divergence of opinion of this Court on the maintainability of a petition under Section 9 of the Act against the third party and referred to a few of those judgments in which divergent views were taken. The Court then referred to another judgment of this Court in the case of *Value Advisory* (supra), which has been relied upon by the Petitioner in this case and has been noticed in the earlier part of this judgment. Relevant paras of the judgment in *Gatx India* (supra) are as under:

“66. While the section explicitly provides that only a party to the arbitration agreement can apply to the



court for interim measures, it does not say against whom any such relief can be claimed. Unlike section 17 which specifically allows for measures to be directed only against parties to arbitration, there is nothing in section 9 which expressly restricts a court from passing orders against non-signatories to arbitration agreement. Pertinently, there has been a divergence of opinion in this Court on the aspect of maintainability of a petition under section 9 of the Act against a third party. On one hand, there are cases where the learned single judges of this court have endorsed the view that section 9 of the Act is applicable only inter se/between the parties to the arbitration agreement....”

**67.** In *Value Advisory Services v. ZTE Corporation, OMP no. 65/2008* decided on 15.07.2009, learned single judge after considering numerous conflicting judgments of single-judge benches of the High Court, inter-alia, concluded that:

“13. A conspectus of the judgments aforesaid on Section 9 would show that the court in each case has made the observation with regard to maintainability/applicability of Section 9 qua third parties depending upon facts of each case and depending upon feasibility of the order sought/required therein. **In my view, no general principle of maintainability/applicability or non-maintainability/nonapplicability can be laid down. It will have to be determined by the court in the facts of each case whether for the purpose of interim measure of protection, preservation, sale of any goods, securing the amount in dispute, an order affecting a third party can be made or not.**

14. In my view, if as a general rule it is laid down that in exercise of power under Section 9, no direction can be issued to parties not parties to agreement containing an arbitration clause or not parties to arbitration proceedings, the same will hamper the efficacy of the said provision. Under Clause (i) thereof, the guardian to be appointed may not be such a party; similarly the goods under Clause (ii)(a) may be or may be required to



be in custody of or delivered to or sold to such third parties-further orders against such third parties may also be required in connection with such sale; under Clause (ii)(b) the amount to be secured may be in the form of money payable or property in hands of such third party - the scope cannot/ought not to be restricted to securing possible with orders against parties to arbitration only. Similar examples can be given with respect to other clauses also.”

**71.** Undoubtedly, section 9 provides that the court shall have the same powers for making interim orders under section 9 as a civil court has for the purpose of, and in relation to, any proceedings before it, and the powers of a civil court in this regard are very wide. The civil courts as and when required, and deemed appropriate in the facts and circumstances of a particular case have been making interim orders in respect of third parties, such as :interim injunction restraining third party-banks from honouring bank guarantees; attaching defendant's monies/property in hands of third party trustee, debtor, agent etc; restraining third party-subsequent transferee/person claiming rights in suit property from disposing of the same, and the like. As a corollary, the power of the court to issue interim orders under section 9 cannot be confined only to the parties to arbitration agreement. However, a significant parameter inherent in section 9, for exercise of this power against a non-signatory to arbitration agreement, is that the purpose of section 9 is to aid arbitration between the parties thereto, and the interim orders there under have to be with regard to subject matter of arbitration/in connection with the arbitral proceedings. In this context, it is relevant to draw a distinction between orders granting interim relief against a party to the arbitration agreement which incidentally affects a third party, on one hand, and orders granting relief directed against a third party, on the other. While the former is ordinarily acceptable as being within the scope of section 9, the power with respect to the latter should be exercised sparingly. For instance, an order appointing a third party as a receiver or guardian of a minor/person of unsound mind is not



an order against the third party, or detrimental to its rights as such. Rather, it is a relief granted to the petitioner in support of the arbitral proceedings and affects the party to the arbitration agreement. Similarly, when a subsequent transferee, or a person claiming title under a party to arbitration is ordered to maintain status quo, or not to dispose of property which is subject matter of arbitration, it is again ancillary to arbitral proceedings in as much, as, it is for protection of the subject matter of arbitration that the order is passed. An injunction, or order of attachment with respect to the properties belonging to/monies owed to a party to arbitration, but in hands of a third party for/on behalf of the said party, is effectively a relief against the said party, which incidentally affects the third party. Pertinently, it is expressly provided in the CPC that attachment before judgment shall not affect the prior existing rights of third parties in the property of the defendant sought to be attached. Injunction against a third party bank from honouring a bank guarantee is consequential to interim relief of restraining a party from encashing the same against the petitioner. To sum up, the court may issue interim orders against the third parties to arbitration only in exceptional circumstances which are such that denial thereof might frustrate the petitioner's rights in arbitration; defeat the very object of arbitration between the parties thereto; render the arbitration proceedings infructuous; lead to gross injustice; and/or, leave the petitioner remediless, depending on facts of each case”

27. Reading of Section 9 of the Act as well as the judgments in *Value Advisory* (supra) and *Gatx India* (supra) makes it clear that the scope of power of a Court under Section 9 of the Act is not limited to parties to an Arbitration Agreement and the Court can issue interim directions even against a third party. The distinction between the powers under Section 9 of the Act and Section 17 of the Act has a clear rationale. An Arbitrator is a creature of the contract between the parties and therefore cannot venture outside the contract to issue directions to parties who are non-parties to the Arbitration Agreement. This limitation is not applicable to a Court exercising power under Section 9 of the Act.”

9. Learned senior counsel for the Petitioner have further relied upon the judgment of a Co-ordinate Bench of this Court in *Asad*



*Mueed and Another vs. Hammad Ahmed and Other*<sup>4</sup>, particularly Paragraph Nos. 24 to 26, to contend that this Court is empowered under Section 9 of the Act to grant an injunction even against a person who is not a party to the arbitration, provided such person's conduct affects the subject matter of the arbitration. The relevant extracts of the said judgment read as follows:

“24. Undisputedly, Section 9 empowers a court to grant an injunction before, during or even after arbitral proceedings have come to an end or stand terminated. However, Section 9(3) bids courts to exercise restraint and caution in this regard and to step in only in situations where it finds that the Section 17 remedy is inefficacious. This aspect was duly emphasised by the Supreme Court in *Arcelor Mittal* as also by this Court in *Pacific Development*. While Section 9(3) may not be an ouster clause, it still bids the court to consider whether its intervention is warranted notwithstanding the Tribunal having been constituted and being in seisin of the entire dispute. The mere existence of the power invested in a court by Section 9 would thus not be sufficient to justify a petition under the said provision being entertained. The court would also have to be convinced that its emergent intervention is warranted since the remedy provided by Section 17 would not be efficacious. Where such questions are raised, the Court would have to come to the definitive conclusion that the Tribunal would not be an effective remedy and that it would be unjust to relegate parties to follow that route. There would have to be compelling reasons which may persuade a court to arrive at the conclusion that the Tribunal would be unable to either grant effective and emergent relief or for various other reasons it would constitute an inefficacious forum for the purposes of the prayers that may be made. The petitioners in the facts of the instant case have woefully failed to meet that test.

25. The argument of an injunction not being liable to be granted against a person who is not a party to the arbitral proceedings also fails to move this Court since the facts of the present case would establish that the restraint in any case operates upon parties from taking steps which may amount to a change of status of HIMSAR. This would clearly operate upon parties before the Tribunal. In any case, it would be premature for this Court to return or record any finding with respect to the alleged violation of the injunction which operates since the Tribunal is presently considering the very same

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<sup>4</sup> 2023 SCC OnLine Del 820



issue. As was noticed in the preceding paragraphs of this decision, the Tribunal is presently dealing with the issue whether a representation under Section 27(5) is liable to be made.

**26.** In any case, a Tribunal, by virtue of the powers conferred upon it under the Act would, in the considered opinion of this Court, have the requisite authority and jurisdiction to formulate such interim measures as may be warranted to preserve and protect the subject matter and corpus of the arbitration. The perception of the petitioners that the Tribunal does not stand vested with the authority and the power to preserve and protect the subject matter of the arbitration or for such injunctions not obliging third parties to take those restraints into consideration, is clearly misconceived. This more so in light of Section 17(2) which now ordains that the order of the Tribunal is comparable to and commensurate with that of a court and is enforceable under the Code in like manner.”

10. This Court has heard learned counsel for the parties at considerable length and, with their able assistance, carefully perused the pleadings, documents, and material placed on record. The rival submissions have been duly considered in the context of the statutory framework governing the field.

11. At the outset, this Court is of the considered opinion that there can be no dispute with regard to the legal position embodied in Section 9(3) of the Act. The legislative intent underlying the said provision is clear that once the Arbitral Tribunal stands constituted, the Court ought not to entertain an application under Section 9(1) unless it is satisfied that circumstances exist which render the remedy under Section 17 inefficacious.

12. The power of the Court under Section 9 of the Act, though wide, is circumscribed by this statutory mandate. As is also evident from the very precedents relied upon by the Petitioner, the jurisdiction under Section 9 of the Act, post the constitution of the Tribunal, is not to be exercised routinely or as a matter of course, but only in exceptional and compelling circumstances where the Court is



persuaded that recourse to the Tribunal would not afford effective or timely relief.

13. In the facts of the present case, it is an admitted position that the Petitioner and Respondent Nos. 1 to 7 are already before the learned Arbitral Tribunal and that the disputes *inter se* the parties, including those relating to the bouquet of trademarks, forming the subject matter of the present controversy, are also currently under adjudication. The learned Tribunal is thus seized of the substantive disputes between the principal contesting parties.

14. Further, this Court finds merit in the contention of the Respondents that any direction issued by the learned Arbitral Tribunal against Respondent No. 7 would, in effect and by necessary implication, bind Respondent No. 8, given that the relationship between Respondent Nos. 7 and 8 is purely contractual in nature. Respondent No. 7 is admittedly a party to the said arbitral proceedings.

15. Thus, any determination of rights and obligations as between the Petitioner and Respondent Nos. 1 to 7 in the arbitration would inevitably have a direct bearing upon, and govern, the rights claimed by Respondent No. 8 under the Franchise Agreement. In such circumstances, it cannot be said that the Tribunal is powerless or that its orders would be rendered ineffective *vis-à-vis* the Franchise Arrangement.

16. This Court is also of the considered view that the issues raised in the present Petition are inextricably intertwined with the disputes pending before the learned Arbitral Tribunal. An adjudication of the reliefs sought herein would substantially overlap with, and may even



pre-empt, the questions that fall for determination in the arbitral proceedings. Therefore, entertaining the present Petition would risk encroaching upon the domain of the learned Tribunal and may result in parallel findings on issues that are already *sub judice* before it. Such an approach would be contrary to the scheme of the Act, which accords primacy to the arbitral process once the Tribunal has been constituted.

17. Insofar as the judgments relied upon by the Petitioner are concerned, the legal principles enunciated therein do not advance the Petitioner's case in the peculiar facts of the present matter. On the contrary, those very decisions underscore that the exercise of jurisdiction under Section 9 of the Act, particularly that of Section 9(3), is fact-specific and contingent upon a clear demonstration that the remedy under Section 17 of the Act is inefficacious. The said provision cannot be applied in an omnibus or mechanical manner in every case involving third parties.

18. It is, therefore, the considered opinion of this Court that each case must be examined on its own factual matrix. In the present matter, no compelling or exceptional circumstance has been demonstrated that would justify bypassing the statutory remedy available before the Arbitral Tribunal under Section 17 of the Act or warrant the exercise of jurisdiction under Section 9 of the Act. Accordingly, the present Petition stands dismissed.

19. Consequent upon the dismissal of the main Petition, and in view of the finding that it does not merit consideration at the threshold, the pending Intervention/Impleadment Application, being **IA No. 4673/2026** filed by the Intervenor is rendered infructuous.



20. The present Petition, along with application(s), is disposed of in the above terms.

**HARISH VAIDYANATHAN SHANKAR, J.**  
**FEBRUARY 18, 2026/nd/kr/dj**