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

Date of decision: 20th MARCH, 2026

IN THE MATTER OF:

\+ **O.M.P.(I) (COMM.) 112/2026, I.A. 7415/2026, I.A. 7416/2026**

RESIDENCY RESORTS PRIVATE LIMITED .....Petitioner

Through: Mr. Rajiv Nayar, Sr. Adv., Mr. Darpan Wadhwa, Sr. Adv. with Mr. Diwakar Maheshwari, Ms. Shreyas Edupuganti, Mr. Karan Bhootra, Mr. Ambuj Sachan and Mr. Nikhil Mehndiratta, Advocates.

versus

UNITED SERVICE INSTITUTION OF INDIA THROUGH DIRECTOR GENERAL .....Respondent

Through: Mrs. Amrit Kaur Oberoi, Ms.Suteekshna Dubey and Ms. Prashansa Srivastava, Advocates.

**CORAM:**
**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**JUDGMENT (ORAL)**

1. The present Petition under Section 9 of the Arbitration and Conciliation Act, 1996 (*hereinafter referred to as "**the Arbitration Act**"*) has been filed by the Petitioner seeking interim measures, *inter alia*, restraining operation of the communication dated 30.01.2026, issued by the Respondent herein; and continuation of the Service Provision Agreement dated 31.03.2021.

2. Shorn of unnecessary details, the facts of the case, as detailed in the present Petition, are that the Respondent, which is a society registered under

the Societies Registration Act, established in the late nineteenth century with the objective of pursuing research in defence services, was allotted approximately 3.67 acres of land at Rao Tula Ram Marg, Vasant Vihar, New Delhi, on which it constructed a large institutional complex for accommodation and hospitality facilities (*hereinafter referred to as "**the premises in question**"*). It is stated that on 29.03.1996, the Respondent issued a public notice seeking to contract out hospitality and accommodation services at the said premises. Pursuant to this process, the Petitioner was selected to operate dining, accommodation, catering and allied services at the premises in question. On 06.08.1996, the first agreement between the parties was executed for a period of five years. Under this agreement, the Petitioner undertook operation and management of restaurant, terrace, accommodation comprising apartments and rooms, reception, office and ancillary facilities. It is stated that on the expiry of the said Agreement, the agreement was renewed on 23.03.2001, when the second agreement was executed extending the relationship between the Petitioner and the Respondent for another five-year term. Thereafter, on 16.05.2005, a third agreement was entered for the period 01.04.2005 to 31.03.2010. The fourth agreement was executed on 08.03.2010 for the period 01.04.2010 to 31.03.2015. Subsequently, the fifth agreement dated 11.03.2015 was entered into for the period 01.04.2015 to 31.03.2020. Thereafter, on 31.03.2021, the sixth and current agreement was executed for the period 01.04.2021 to 31.03.2026. It is the case of the Petitioner that it has invested substantial amount of money in developing the infrastructure and facilities at the premises in question. It is stated that on 28.01.2025, during the subsistence of the Agreement, the Petitioner addressed a letter to the Respondent

regarding revision of catering rates. In response, on 06.02.2025, the Respondent issued a communication indicating that revised rates would remain effective until 31.03.2026, and that renewal of the contract would be considered in April 2026, thereby evidencing the intention of renewal. It is stated that acting upon this representation, from February 2025 onwards, the Petitioner invested approximately INR 50.60 lakhs in infrastructure and expanded manpower by hiring around 30 additional employees. Further, it is stated that on 08.05.2025, the Respondent approved long-term allotments of certain apartments to third-party entities for periods extending up to 2030, reinforcing the Petitioner's understanding that the contractual arrangement would continue. It is stated that on 30.06.2025, the Respondent also permitted construction of temporary storage facilities by the Petitioner at the premises in question. It is stated that the circumstances changed after new management assumed control of the Respondent in January 2026. It is stated that on 28.01.2026, a meeting was scheduled, and on 30.01.2026, during the said meeting, the Petitioner was informed that the accommodation facilities would be handed over to third parties and that the existing agreement expiring on 31.03.2026 would not be renewed. On the same date, the Respondent issued the letter dated 30.01.2026 directing the Petitioner to prepare for transition and indicating that catering services would be outsourced through competitive bidding. It is stated that on 25.02.2026, the Respondent issued a Request for Proposals inviting third-party bids for catering services. It is stated that the Petitioner issued a detailed representation dated 06.03.2026 seeking withdrawal of the letter dated 30.01.2026. In reply, the Respondent issued a communication dated 12.03.2026, raising allegations regarding deficiencies in management and

under-reporting of turnover, which the Petitioner characterised as vague, baseless and an *ex post facto* justification for the Respondent's predetermined decision. It is stated that Clause 32 of the Service Provision Agreement dated 31.03.2021 contains an arbitration clause providing for resolution of disputes through arbitration, and therefore the Petitioner has approached this Court only for interim measures before initiation of arbitral proceedings, as contemplated under Section 9 of the Act.

3. It is the case of the Petitioner that the agreements and surrounding conduct of the Respondent demonstrate an express and unequivocal assurance of renewal of the sixth agreement, particularly in view of the Respondent's communication dated 06.02.2025 acknowledging that renewal was due in April 2026. It is stated that acting upon this representation, the Petitioner invested additional capital exceeding Rs. 50 lakhs from February 2025 and increased manpower strength. The Petitioner asserts that the Respondent cannot resile from its representation to the Petitioner's detriment. Additionally, the Petitioner alleges that the Respondent's conduct, particularly the letters dated 30.01.2026 and 12.03.2026, is arbitrary, *mala fide*, and in breach of contractual as well as equitable obligations. It is contended that after benefiting from the Petitioner's long-term investments and performance for nearly thirty years without any allegation of breach, the Respondent has sought to introduce belated and vague allegations regarding mismanagement and under-reporting of turnover as an *ex post facto* justification for its predetermined decision to displace the Petitioner. The Petitioner asserts that the Respondent had consistently accepted audited accounts, received rentals and revenue share without objection, and repeatedly acknowledged satisfaction with the Petitioner's

services in successive agreements. The Petitioner further contends that the Respondent's actions suffer from procedural unfairness and non-application of mind, as discussions held in December 2025 and January 2026 related only to operational improvements and did not indicate any proposal of termination or non-renewal. The sudden issuance of the communication dated 30.01.2026, followed by initiation of a bidding process on 25.02.2026 and subsequent allegations on 12.03.2026, is alleged to reveal a pre-meditated design to appropriate the Petitioner's substantial investments without compensation. Such conduct is asserted to violate settled principles of contractual fairness, commercial good faith, legitimate expectation, and equity, thereby necessitating immediate injunctive intervention to preserve *status quo* pending arbitration.

4. For better understanding of the case, it is necessary to extract the terms of the Service Provision Agreement dated 31.03.2021 (*hereinafter referred to as "**the Agreement**"*), which had been entered into between the Petitioner and the Respondent under which the Petitioner was to provide services in the premises in question. Clause of the Agreement, which specifies the period for which the Agreement was to be effective, reads as under:

> "*(1) The period of this Agreement shall be from 01 Apr 2021 to 31 Mar 2026 and shall be further renewed thereafter by mutual consent.*"

5. Clause 11 of the Agreement, which details the services to be provided by the Petitioner is reproduced and the same reads as under:

> "*(11) RRPL shall provide the following services: –*
>
> *(a) Running of dining facilities on all days, except*

*National Holidays, for breakfast, lunch and dinner.*

*(b) Managing all aspects of the accommodation including Reception, Coffee Shop, Housekeeping, Laundry Service, taxi service, travel assistance and telephone / fax / e-mail / WI-FI services on a 24-hour basis daily.*"

6. Clause 14 of the Agreement provides for apportionment of earnings and the same reads as under:

"*(14) During the period of the agreement, RRPL shall share the turnover with USI as under:*

*(a) Upto turnover of Rs. 1.92 crore per annum, USI share shall be Rs. 67,20,000/-. This shall be paid by equal monthly cheques of Rs. 5,60,000/- by 7th of the month.*

*(b) Turnover in excess of Rs. 1.92 crore in a year shall be shared in the proportion of one-third to USI and two-third to RRPL. USI share shall be paid on finalization of Balance Sheet but before 31 July each year.*"

7. Clause 29 of the Agreement, which provides that the Agreement can be terminated by either party by giving three months' notice in writing, reads as under:

"*(29) This Agreement may be terminated by either party by giving three months' notice in writing.*"

8. Clause 32 of the Agreement, which provides for dispute resolution, reads as under:

> "*(32) In the event of any dispute or difference arising between the parties out of or in connection with this Agreement, the same shall be referred to Arbitration, and the decision of the sole Arbitrator appointed by the Director General, USI shall be final and binding on both the parties.*
>
> *The venue of arbitration shall be New Delhi.*"

9. A perusal of the aforesaid clauses indicates that the Agreement between the parties was for a fixed term of five years, commencing from 01.04.2021 and expiring on 31.03.2026, and upon completion of the said period, the Agreement stood terminated by efflux of time. The contractual framework further stipulates that termination could be effected by either party by issuance of three months' written notice, and that any continuation or renewal of the Agreement was contingent solely upon mutual consent of both parties.

10. The short question which arises for consideration in the present Petition is as to whether this Court should grant the reliefs, as prayed for, in the present Petition or not.

11. Learned Senior Counsel appearing for the Petitioner has vehemently contended that the Petitioner legitimately expected that the Agreement would be renewed on the basis of letter dated 16.02.2026 given the long standing understanding between the parties. In the opinion of this Court, the doctrine of legitimate expectation cannot override express contractual terms governing duration and renewal. The principles of legitimate expectation and promissory estoppels arise in matters of policy decision of the State and

not in the realm of commercial contract between two parties providing express contractual terms governing duration and renewal. In any event, the Agreement between the Petitioner and the Respondent herein is a determinable Agreement which comes to an end by efflux of time on 31.03.2026.

12. Section 14(d) of the Specific Relief Act, 1963 (*hereinafter referred to as "**the Specific Relief Act**"*) provides that a Contract which is a determinable contract cannot be specifically enforced. Section 41(e) of the Specific Relief Act provides that injunction cannot be granted to prevent breach of a Contract, the performance of which would not be specifically enforced. The said provisions reads as under:

> *"**14**. Contracts not specifically enforceable.—The following contracts cannot be specifically enforced, namely:—*
> *…..*
> *(d) a contract which is in its nature determinable.*
>
> *****
>
> ***41**. Injunction when refused.—An injunction cannot be granted—*
> *…..*
> *(e) to prevent the breach of a contract the performance of which would not be specifically enforced;*
> *…"*

13. The Apex Court has laid down the law with respect to grant of injunction or restoration of contracts which are determinable in nature in Indian Oil Corporation Limited vs. Amritsar Gas Service, **(1991) 1 SCC**

**533**, wherein the Apex Court has held as under:

> *"12. The arbitrator recorded finding on Issue No. 1 that termination of distributorship by the appellant-Corporation was not validly made under clause 27. Thereafter, he proceeded to record the finding on Issue No. 2 relating to grant of relief and held that the plaintiff-respondent no. 1 was entitled to compensation flowing from the breach of contract till the breach was remedied by restoration of distributorship. Restoration of distributorship was granted in view of the peculiar facts of the case on the basis of which it was treated to be an exceptional case for the reasons given. The reasons given state that the Distributorship Agreement was for an indefinite period till terminated in accordance with the terms of the agreement and, therefore, the plaintiff-respondent 1 was entitled to continuance of the distributorship till it was terminated in accordance with the agreed terms. The award further says as under:*
>
> > *"This award will, however, not fetter the right of the defendant corporation to terminate the distributorship of the plaintiff in accordance with the terms of the agreement dated April 1, 1976, if and when an occasion arises."*
>
> *This finding read along with the reasons given in the award clearly accepts that the distributorship could be terminated in accordance with the terms of the agreement dated April 1, 1976, which contains the aforesaid clauses 27 and 28. Having said so in the award itself, it is obvious that the arbitrator held the distributorship to be revokable in accordance with clauses 27 and 28 of the agreement it is in this sense that the award describes the Distributorship Agreement as one for an indefinite period, that is, till*

*terminated in accordance with clauses 27 and 28. The finding in the award being that the Distributorship agreement was revokable and the same being admittedly for rendering personal service, the relevant provisions of the Specific Relief Act were automatically attracted. Sub section (1) of Section 14 of the Specific Relief Act specifies the contracts which cannot be specifically enforced, one of which is in its nature determinable. In the present case, it is not necessary to refer to the other clauses of sub section (1) of section 14, which also may be attracted in the present case since clause (c) clearly applies on the finding read with reasons given in the award itself that the contract by its nature is determinable. This being so granting the relief of restoration of the distributorship even on the finding that the breach was committed by the appellant-Corporation is contrary to the mandate in section 14(1) of the Specific Relief Act and there is an error of law apparent on the face of the award which is stated to be made according to 'the law governing such cases'. The grant of this relief in the award cannot, therefore, be sustained.*"

14. The Division Bench of this Court in Rajasthan Breweries Ltd. v. The Stroh Brewery Company, **(2000) SCC OnLine Del 481** has observed as under:

> *"20. Even in the absence of specific clause authorising and enabling either party to terminate the agreement in the event of happening of the events specified therein, from the very nature of the agreement, which is private commercial transaction, the same could be terminated even without assigning any reason by serving a reasonable notice. At the most, in case ultimately it is found that termination was bad in law or*

> *contrary to the terms of the agreement or of any understanding between the parties or for any other reason, the remedy of the appellants would be to seek compensation for wrongful termination but not a claim for specific performance of the agreements and for that view of the matter learned Single Judge was justified in coming to the conclusion that the appellant had sought for an injunction seeking to specifically enforce the agreement. Such an injunction is statutorily prohibited with respect of a contract, which is determinable in nature. The application being under the provisions of Section 9(ii)(e) of the Arbitration and Conciliation Act, relief was not granted in view of Section 14(i)(c) read with Section 41 of the Specific Relief Act. It was rightly held that other clauses of Section 9 of the Act shall not apply to the contract, which is otherwise determinable in respect of which the prayer is made specifically to enforce the same."*

15. The Division Bench has, therefore, held that where the ultimate termination is found to be illegal, the remedy is to seek damages for wrongful termination and a claim for specific performance cannot be entertained.

16. A Co-ordinate Bench of this Court in V.F. Services (UK) Ltd. v. Union of India, **2011 SCC OnLine Del 4858**, has observed as under:

> *"7. The VOC is a contract which by its very nature is determinable. Although in exceptional facts of individual cases involving agencies of the State, this Court has granted interim relief even against the termination of a contract (for e.g., Pioneer Publicity Corporation v. Delhi Transport Corporation), the settled law is that even where a*

*contract has been illegally terminated the aggrieved party would be able to only claim damages and no interim relief against termination of the contract. In Indian Oil Corporation v. Amritsar Gas Service, (1991) 1 SCC 533, the Supreme Court explained that even where one of the contracting parties was an agency of state, the constitutional limitations of Article 14 as explained in Dwarkadas Marfatia and Sons v. Board of Trustees of the Port of Bombay (1989) 3 SCC 293, Mahabir Auto Stores v. Indian Oil Corporation, (1990) 3 SCC 752 and Shrilekha Vidyarthi v. State of U.P., (1991) 1 SCC 212 would not apply since the case was based only on breach of contract and remedies flowing therefrom. Therefore (SCC, p.541) "the further questions of public law based on Article 14 of the Constitution do not arise for decision in the present case and the matter must be decided strictly in the realm of private law rights governed by the general law relating to contracts with reference to the provisions of the Specific Relief Act providing for non-enforceability of certain types of contracts. "On the facts of that case it was held that (SCC, p.542 "granting the relief of restoration of the distributorship even on the finding that the breach was committed by the appellant-Corporation is contrary to the mandate in Section 14(1) of the Specific Relief Act.*

*8. Here the VOC dated 26th November 2010 is by its very nature determinable. There appear prima facie to be no extenuating circumstances that warrant a departure from the settled legal position that the court will not grant an interim relief of continuing a contract that is by its very nature determinable. In other words, this Court is not persuaded to overlook the legal bar erected by*

> *Section 14(1)(c) read with Section 41(e) of the SRA. Clause 11 of the VOC, which has been invoked by Respondent No. 2, envisages either party terminating the contract by giving two months' advance notice "of being unable to carry on the services any longer". Respondent No. 2 did give two months' advance notice to the Petitioner…."*

17. The Co-ordinate Bench has, therefore, held that while adjudicating a Petition under Section 9 of the Arbitration and Conciliation Act, 1996, an injunction order granted in a contract which by its very nature is determinable and specific performance can also be not granted in such a contract.

18. Another Division Bench of this Court in Indian Railways Catering Tourism Corporation Limited v. Cox and Kings India Limited, **(2012) SCC OnLine 113** has observed as under:

> *"25. Based on the facts projected above, we come back to the main issue, namely, whether direction in the nature given, which are in the nature of mandatory injunction amounting to specific performance or directing continuation of the arrangement even when the agreement had been terminated could be given or not. Once the Joint Venture Agreement is terminated, prima facie we feel that even in the main arbitration proceedings, it would be difficult for M/s. C&K to seek the final relief of specific performance and for restoration of the agreement. There is a huge possibility that in such a situation, normally M/s. C&K would be entitled to damages even if it is held that Joint Venture Agreement was illegally terminated. After all, Joint Venture Agreement was a contract*

*between the parties. It was only in the realm of contractual arrangement with no statutory flavour and no element of public law. While dealing with the contractual obligations under the realm of contract in a private field without any insignia of public element, it may be somewhat difficult for M/s. C&K to maintain the relief of specific performance. The agreement was in commercial field to be governed by contract law, as between two private parties. In Rajasthan Breweries Ltd. v. The Stroh Brewery Company, AIR 2000 Del 450, the Court enunciated the principle on this aspect in the following words:*

> *"Even in the absence of specific clause authorising and enabling either party to terminate the agreement in the event of happening of the events specified therein, from the very nature of the agreement, which is private commercial transaction, the same could be terminated even without assigning any reason by serving a reasonable notice. At the most, in case ultimately it is found that termination was bad in law or contrary to the terms of the agreement or of any understanding between the parties or for any other reason, the remedy of the appellants would be to seek compensation for wrongful termination but not a claim for specific performance of the agreements and for that view of the matter learned Single Judge was justified in coming to the conclusion that the appellant had sought for an injunction seeking to specifically enforce the agreement. Such an injunction is statutorily prohibited with respect of a contract, which is determinable in nature. The application being under the provisions of Section 9(ii)(e) of the Arbitration and Conciliation Act, relief*

*was not granted in view of Section 14(i)(c) read with Section 41 of the Specific Relief Act. It was rightly held that other clauses of Section 9 of the Act shall not apply to the contract, which is otherwise determinable in respect of which the prayer is made specifically to enforce the same."*

*26. We are unable to accept the contention of learned counsel for the appellant that since IRCTC is a corporation which is wholly owned by the Ministry of Railways and is, thus, subjected to Article 12 of the Constitution of India, the appellant can maintain the prayer for mandatory injunction. This plea of the appellant flows from the argument that the action of the State or instrumentality of the State has to be fair, just and non-arbitrary even in contractual matters and for this purpose, the appellant has referred to the judgment of this Court in Pioneer Publicity Corporation v. DTC, (2003) 103 DLT 442 and that of Supreme Court in Mahabir Auto Sales (supra). While there is no denial of the legal principle, per se, laid down in the aforesaid cases, we are unable to accept the applicability of these judgments insofar as the present case is concerned and that too, when we are dealing with the question of interim arrangement and not concerned with the final stage of the proceedings. Specific performance would require day to day supervision. In any event, M/s. C&K can be compensated in terms of money if they prove losses due to alleged wrongful treatment. There is a serious dead lock between IRCTC and M/s. C&K in relation to the affairs of Joint Venture company cannot be given a go-by.*

*27. Though our aforesaid observations are only prima facie in nature and we are clear that in arbitration proceedings, the Arbitral Tribunal*

*would decide the same on its own merits without being influenced by our tentative observations, this exercise is undertaken for the purpose of present proceedings under Section 9 of the Act. Once this is the prima facie view we hold, it is difficult to make interim arrangement and pass an order in the nature of mandatory injunction directing continuation of the earlier arrangement which has been terminated by IRCTC. After all, it is to be borne in mind that IRCTC is the absolute owner of the train in question and the said train belongs exclusively to IRCTC. Can, in such circumstances, IRCTC be forced to do what it is not willing to in a matter relating to commercial contract, which has been terminated? Somewhat similar situation had arisen in the case of Country Development and Management Services Pvt. Ltd. v. Brookside Resorts Pvt. Ltd., 2006 Supp Arb LR 248 (Delhi). In this Single Bench judgment rendered by one of us (A.K. Sikri, J.), the injunction was refused. Para 14 of the said judgment takes note of the facts which prevailed in that case and in the said para, legal position is stated. In that case also, the Court was dealing with application under Section 9 of the Act. We reproduce herein para 14 and other relevant paragraphs for our purpose:*

> *14. I may state at the outset that the fundamental aspect which is to be borne in mind is that we are dealing with petition under Section 9 of the Arbitration and Conciliation Act, 1996 and, therefore, entire matter has to be looked into from the angle as to what should be the interim arrangement between the parties. The parties entered into agreement dated 2nd June, 2001, namely, TLA and now the disputes have arisen between the parties arising out of the*

*said TLA. The matter will have to be gone into, in depth, in those arbitration proceedings. The admitted position which emerges is that the land in question on which the hotel is built, belongs to the respondent. It is also not disputed that the entire financial arrangement for construction of the said hotel is borne by the respondent either from its own resources or by taking loan from financial institution. Though the petitioner's case is that financial institution has sanctioned the loan because of the petitioner's association with the respondent, fact remains that loan is sanctioned in the name of the respondent and it is the sole responsibility of the respondent to repay the said loan. The construction cost of the project is, according to the respondent, Rs. 11 crores. Therefore, entire hotel property, namely, land as well as construction thereon exclusively belongs to the respondent. As per the petitioner's averments, it has provided the technical knowhow in the form of drawings, designs/consultancy etc. on the basis of which hotel is built and the hotel which stands now, gives an appearance of of a CIS hotel. This is disputed by the respondent. It, however, cannot be denied that some technical support is obviously provided by the petitioner pursuant to the TLA. However, only because of this reason can it be said that the respondent should not be allowed to run the hotel if the parties have otherwise fallen apart. Case of the petitioner is that the respondent has made structural, architectural and design changes and, therefore, even according to the petitioner the hotel is not made strictly in conformity*

*with the standard on which CIS hotels are constructed. The respondent wants to run the hotel itself. Even if there was no dispute and the hotel was strictly built according to CIS standards and hotel had run under the petitioner's banner, the respondent could always terminate the agreement at any time under the TLA and start operating the hotel of its own. This is because the agreement is determinable in nature. If that could be the position even after the start of hotel as Carlson hotel, I am of the view that if the respondent wants to start the hotel, from the beginning itself, without the association of the petitioner, it can do so. The petitioner, for the alleged services rendered and for the alleged breach of contract on the part of the respondent, can always sue for damages.*

*15. In view of Sections 14 and 34 of the Specific Relief Act, injunction cannot be granted. These provisions have come up for consideration before the courts number of times. Some of these judgments are taken note of hereinafter:*

*(i) Rajasthan Breweries Ltd. v. The Stroh Brewery Co. (supra):*

> *"13 : As the application by the appellant was filed under Section 9 of the Act prior to commencement of the arbitration proceedings, it is not disputed that the Court is empowered to deal with the same and exercise such power for making orders as it has for the purposes of and in relation to any proceedings before it. The closing words of Section 9 of the Act empowering the Court to deal with such*

*applications for interim measures have on the face of it to be dealt with in accordance with the law applicable to any proceedings taken out before such a court. On the ratio of the decision of the Supreme Court in Sumitomo Heavy Industries Ltd. v. ONGC Ltd., (1998) 1 SCC 305 : AIR 1998 SC 825 the application will be governed by the law of India and not by the governing law. However, the principles of equity governing specific performance are almost same in Indian law and English law. The discretion of the Courts of England while enforcing the specific performance of a contract is subject to the same constraints as are applicable in the Courts in India. Under the English law of specific performance of contractual obligation is available only in equity and is subject to various restrictions, which have been explained by G.H. Treitel in his work "The Law of Contracts" 6th Edition pages 764 to 775 as follows:*

*"(i) Specific performance will not be ordered where damages are adequate remedy.*

*(ii) If the party applying for relief is guilty of a breach of the contract or is guilty of wrongful conduct.*

*(iii) If the Contract involves personal service.*

*(iv) If the contract requires constant supervision.*

*(v) If the party against whom specific performance is sought is entitled to terminate the contract."*

*At page 775, it is stated in the aforementioned work:—*

*"If the party against whom specific performance is sought is entitled to terminate the contract, the order will be refused as the defendant could render it nugatory by exercising his powers to terminate. This principle applies whether the contract is terminable under its express terms or on account of the conduct of the party seeking specific performance."*

*14. The effect of breach of a contract by a party seeking to specifically enforce the contract under the Indian law is enshrined in Section (c) read with Section 41(e) of the Specific Relief Act, 1963. Clause (e) of Section 41 of the Specific Relief Act provides that injunction cannot be granted to prevent the breach of contract, the performance of which would not be specifically enforced. Clause (c) of Section 41 enumerates the nature of contracts, which could not be specifically enforced. Clause (c) to sub-section (1) of Section 14 says that a contract which is in its nature determinable cannot be specifically enforced. Learned Single Judge thus was justified in saying that if it is found that a contract which by its very nature is determinable, the same not only cannot be enforced but in respect of such a contract no injunction*

*could also be granted and this is mandate of law. This, however, is subject to an exception, as provided in Section 42 that where a contract comprises an affirmative agreement to do a certain act, coupled with a negative agreement, express or implied, not to do a certain act, the circumstances that the court is unable to compel specific performance of the affirmative agreement shall not preclude it from granting an injunction to perform the negative agreement.*

*18. In Indian Oil Corporation Ltd. v. Amritsar Gas Service, (1991) 1 SCC 533, the Supreme Court had an occasion to consider the terms of agreement of distributorship. The agreement could be terminated in accordance with the terms of the agreement as per clauses 27 and 28 thereof. The Arbitrator had also held the distributorship to be revocable in accordance with clauses 27 and 28 of the agreement. The distributorship agreement was held for indefinite period, namely, till the time it was terminated in accordance with the terms contained therein. It was the case of the respondent therein that since the contract had not been terminated in accordance with clause 27 thereof, under which termination had been made, the firm was entitled to continuance of distributorship in the special circumstances of the case, which contention was upheld by the Arbitrator. Supreme Court set aside the*

*award of the arbitrator on the ground that there is error of law apparent on the face of the record and grant of relief in the award cannot be sustained. It was held:—*

*"The arbitrator recorded finding on issue No. 1 that termination of distributorship by the appellant Corporation was not validly made under clause 27. Thereafter, he proceeded to record the finding on issue No. 2 relating to grant of relief and held that the plaintiff-respondent 1 was entitled to compensation flowing from the breach of contract till the breach was remedied by restoration of distributorship. Restoration of distributorship was granted in view of the peculiar facts of the case on the basis of which it was treated to be an exceptional case for the reasons given. The reasons given state that the Distributorship Agreement was for an indefinite period till terminated in accordance with the terms of the agreement and, therefore, the plaintiff-respondent No. 1 was entitled to continuance of the distributorship till it was terminated in accordance with the agreed terms. The award further says as under:—*

*"This award will, however, not fetter the right of the defendant Corporation to terminate the distributorship of the plaintiff in accordance with the terms of the agreement dated April 1, 1976, if and when an occasion arises."*

*This finding read along with the reasons given in the award clearly accepts that the distributorship could be terminated in accordance with the terms of the agreement dated April 1, 1976, which contains the aforesaid clauses 27 and 28. Having aid so in the award itself, it is obvious that the arbitrator held the distributorship to be revokable in accordance with clauses 27 and 28 of the agreement. It is in this sense that the award describes the Distributorship Agreement as one for an indefinite period, that is, till terminated in accordance with clauses 27 and 28. The finding in the award being that the Distributorship Agreement was revokable and the same being admittedly for rendering personal service, the relevant provisions of the Specific Relief Act were automatically attracted. Sub-section (1) of Section 14 of the Specific Relief Act specifies the contracts which cannot be specifically enforced, one of which is a contract which is in its nature determinable. In the present case, it is not necessary to refer to the other clauses of subsection (1) of Section 14, which also may be attracted in the present case since clause (c) clearly applies on the finding read with reasons given in the award itself that the contract by its nature is determinable. This being so granting the relief of restoration of the distributorship even on the finding that the breach was committed by the appellant-Corporation is contrary to*

*the mandate in Section 14(1) of the Specific Relief Act and there is no error of law apparent on the face of the award which is stated to be made according to the law governing such cases. The grant of this relief in the award cannot, therefore, be sustained. The facts of the present case are identical to those in aforementioned decision of the Supreme Court in as much as the agreements in the instant case are also terminable by the respondent on happening of certain events. In Indian Oil Corporation's case (supra) also agreement was terminable on happening of certain events. Question that whether termination is wrongful or not; the events have happened or not; the respondent is or is not justified in terminating the agreements are yet to be decided. There is no manner of doubt that the contracts by their nature determinable.*

*In Classic Motors Ltd. v. Maruti Udyog Ltd., 1997 I AD (DELHI) 190 : (1997) 65 DLT 166 relying upon number of decisions, learned Single Judge of this court rightly observed:—*

*"In view of long catena of decisions and consistent view of the Supreme Court, I hold that in private commercial transaction the parties could terminate a contract even without assigning any reasons with a reasonable period of notice in terms of such a Clause in the agreement. The submission that there could be no termination of an*

*agreement even in the realm of private law without there being a cause or the said cause has to be valid strong cause going to the root of the matter, therefore, is apparently fallacious and is accordingly, rejected."*

*(ii) Crompton Greaves Ltd. v. Hyundai Electronics Industries Co. Limited, (1998) 76 DLT 733.*

*(iii) National Auto Impex v. Autocop (India) Pvt. Ltd., 2001 VI AD (DELHI) 490*

*(iv) Indian Oil Corporation Ltd. v. Amritsar Gas Service, (1991) 1 SCC 533.*

*(v) Alfa Laval (India) Ltd. v. J.K. Corp. Ltd., 2000 I AD (DELHI) 974.*

*16. The effect of the stay order would be that the hotel is not allowed to start its operation. If ultimately the respondent succeeds then the respondent would be put to unnecessary loss and the time gone by would be wasted without putting the clock back. On the other hand, it is ultimately held that the petitioner had right to run the management of hotel for specified period such an award can be passed in favour of the petitioner or the petitioner can be compensated for depriving it from doing so.*

*17. Learned senior counsel for the respondent, in these circumstances, is right in his submission that the petitioner cannot invoke the provisions of Section 42 of the Specific Relief Act. There is a dispute as to whether the contract is still in existence or it has come to an end by efflux of time. The*

*respondents submission that once the opening date is not extended by the petitioner under clause 1.5 of the agreement there is no obligation on the part of the petitioner to comply with the agreement. The circumstance of the case, therefore, do not warrant exercise of any discretionary jurisdiction in favour of the petitioner. The principle laid down by the Supreme Court in Gujrat Bottling Company Ltd. (supra) is that relief by way of interlocutory injunction, is granted to mitigate the risk or injustice to the petitioner during the period before that uncertainty could be resolved. The object of the interlocutory injunction is to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial. The need for such protection has, however, to be weighed against the corresponding need to the defendant to be protected against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated."*

*28. In the present case, when the adhoc arrangement or even the so-called lease has been terminated, we agree with the learned Additional Solicitor General that passing of mandatory injunction would amount to:*

*(i) First, create an agreement between Joint Venture company and IRCTC in relation to the train;*

> *(ii) Second, enforce such agreement even though JV company was not a petitioner; and*
>
> *(iii) Third, allow M/s. C&K to take advantage of such agreement when, admittedly, even the 'Lease Agreement' as per the terms of the Joint Venture Agreement was to be between JV company and IRCTC."*

19. Another Co-ordinate Bench of this Court in M/s Anukampa Solutions Private Limited v. Uttar Pradesh State Road Transport Corporation & Ors, **(2009) SCC OnLine Del 3531,** while dealing with a petition under Section 9 of the Arbitration Act, has observed as under:

> *"9.xxxxxxxxx*
>
> *(iv) I am of the opinion that once a licensee, always a licensee. This principle has been clearly laid down in a Full Bench decision of this court reported as Chandu Lal v. MCD AIR 1978 Del 174. In fact, the Full Bench of this Court in this judgment has laid down that a licensee after his licence is terminated is not entitled to any interim injunction and in fact the licensor is entitled to use reasonable force to throw out the licensee from the licenced premises. I may also note at this stage that a Division Bench Judgement of this court in the judgment reported as DTTDC v. D.R. Mehra & sons (1996) 62 DLT 234 declined an injunction which was prayed for by a licensee by stating that a licencee after termination of the licence is not entitled to injunction and even if he is in possession such a relief cannot be granted to him and the Division Bench clearly stated that a licencee should not be allowed to urge the argument of due process of law because such issue will not arise if the licencee himself acts fairly and vacates the premises.*

> *10. The issue of balance of convenience and irreparable injury in a case like this has necessarily to be seen from the perspective of the legal bar with respect to the grant of injunction because of Sections 14(1), (a), (b) & (c) read with Section 41(e) of the Specific Relief Act. If the law itself disentitles any injunction, then equities cannot have any say. That being the position and in view especially of the law with relation to termination of license, the balance of convenience is not in favour of the petitioner but in favour of the respondents as the petitioner will be compensated suitably by damages in case the respondent is found guilty of committing breach of contract. I may finally note that by looking at facts to arrive at a decision on an application for injunction under Section 9, it cannot be said that a Court conducts a mini trial. This Court is mandated to see the strength of the cases of the respective parties to arrive at a decision by virtue of Colgate Palmolive v. Hindustan Liver Ltd. (1999) 7 SCC 1. Mini trial would only be when highly disputed questions of facts are decided while deciding an application under Order XXXIX CPC, and which is not so in the present case in view of the basic facts as stated above being admitted or become apparent from the record. The contention of the petitioner of "mini trial" is thus not well founded."*

20. Another Co-ordinate Bench of this Court in Overnite Express Limited vs. Delhi Metro Rail Corporation, **(2020) SCC OnLine Del 2093** after relying on the aforesaid judgments has held as under:

> ***44.*** *Reading of the judgments referred to above leads this Court to only one conclusion that a Contract*

*which in its nature is determinable, cannot be specifically enforced in view of the clear legal bar under Section 14(1)(c) of the Specific Relief Act, 1963. Once a Contract is not enforceable, Section 41(e) Specific Relief Act, 1963, occupies the field and provides that an injunction cannot be granted to prevent the breach of a Contract, the performance of which would not be specifically enforced. Section 41(e) of the Specific Relief Act, 1963, is as under:*

> *"41. Injunction when refused—An injunction cannot be granted—*
>
> *xxxxxxxxx*
>
> *(e) to prevent the breach of a contract the performance of which would not be specifically enforced""*

21. Applying the said dictum and the provisions of Sections 14(d) & 41(e) of the Specific Relief Act, to the facts of this case, does not entitle the Petitioner herein to claim any injunction in view of the fact that the Agreement entered into between the Petitioner and the Respondent is purely a commercial contract which specifically provides that it would expire at the end of five years terms unless mutually extended. In the opinion of this Court, the Agreement entered into between the Petitioner and the Respondent can neither be specifically enforced after the expiry of the pre-determined period nor can an injunction be granted if one of the parties decides not to extend the term of the Agreement. Even under Section 9 of the Arbitration Act, courts ordinarily do not grant injunctions enforcing determinable contracts unless exceptional equities exist. This Court is not satisfied that the Petitioner has established a *prima facie* enforceable right to

the continuation of the Agreement, nor that denial of relief would render arbitration nugatory.

22. Accordingly, the Petition is dismissed. Pending Applications, if any, also stands dismissed.

**SUBRAMONIUM PRASAD, J**

**MARCH 20, 2026**
*Rahul*