IN THE COURT OF THE ADDL. DISTRICT JUDGE -VIII, ERNAKULAM

Present:-Sri.Satheesh Kumar V, Addl. District Judge-VIII

Wednesday, the 10th day of June, 2026/20th Jyaishta 1948

M.A(Arb.)No.1107/2025

Petitioner:

FREEMEN INVESTMENTS Private Limited, having its registered office 5/822E, Kavitha Building, Library Road, Municipal Junction, North Paravur, Ernakulam, Pin-683 513 and its branch office at No.69 A,A1,A2.,Near KPL Oil Mills, Combara, Irinjalkuda, 680121, represented by its Managing Director, K.O.Varghese, aged 56 years, S/o.Devassy Ouseph, residing at Kuzhipilly House, Kedamangalam, North Paravur, Ernakulam.

By Advs.Sreenath V Gopal and Divya B Nair

Respondents:-

1.Jincy P.F, W/o.Ajomon, aged 40 years, Parokkaran House, Velayanad, Vellangallur, Vadakkumkara P.O., Thrissur, Pin 680 662.

2.Ajomon P.A., S/o.Antony P.T, aged 45 years, Parokkaran House, Velayanad, Vellangallur, Vadakkumkara P.O, Thrissur, Pin - 680662.

3.Vikraman.K.M.,S/o.Mani, Kodakkattil House, Park Road, Irinjalakuda P.O., Thrissur, Pin-680 121.

R1 to R3 - Exparte

This petition filed under Section 9 of the Arbitration and Conciliation Act, 1996, amended by Arbitration and Conciliation Amendment Act,2015.

This petition came up for hearing before me on 05.06.2026 and the Court 10.06.2026 passed the following :

ORDER

1. This is an application filed under Section 9 of the Arbitration and Conciliation Act, 1996, seeking an interim measure of protection for the attachment of the immovable property belonging to the first respondent, in order to secure the amount in dispute pending the commencement and final conclusion of the arbitral proceedings.
2. The case of the petitioner, as set out in the arbitration original petition and the accompanying affidavit, is that the petitioner is a registered non-

banking financial institution engaged in the business of providing commercial credit facility loans on hypothecation and guarantee basis. The first and second respondents as principal borrowers, along with the third respondent as guarantor, entered into a daily repayment Loan and Guarantee Agreement with the petitioner company dated 17.11.2023. Under the said contract, the respondents availed a business loan of ₹50,000/- and unconditionally undertook to repay the principal amount along with contractually agreed interest at the rate of 18% per annum in 365 equal daily installments.

3. The petitioner further alleges that the respondents consistently failed to adhere to the strict commercial discipline of the repayment schedule and committed regular defaults from 12.05.2024 onwards. Despite multiple demands and reminders, the respondents failed to liquidate their outstanding dues. As per the statement of accounts as on 23.09.2024, a total sum of ₹37,250/- remains legally due and outstanding against the respondents.

4. The default clause in the Loan and Guarantee Agreement explicitly contains an arbitration clause providing that any dispute, difference, or outstanding balance arising out of or in connection with the performance or execution of the contract shall be referred to a mutually agreed sole arbitrator at the seat and place of arbitration in Ernakulam, Kerala. The petitioner expressed its intention to refer the unresolved commercial dispute to arbitration and issued a notice invoking arbitration. However, through reliable branch intelligence and local field investigations, it is revealed that the first respondent is actively making hectic, collusive arrangements to clandestinely alienate and transfer her immovable property to third parties. It is contended that such a fraudulent disposition, if taken place, shall defeat the realisation of the prospective

arbitral award, rendering it a mere paper decree. Hence, the petitioner seeks attachment of the property under Section 9 of the Act.

5. Notice was served upon the respondents, but they chose not to appear. So, they were set ex parte. The property was attached in the case.

6. The learned counsel appearing for the petitioner argued that the relationship between the parties is purely contractual and governed by the written Loan and Guarantee Agreement dated 17.11.2023. It was highlighted that the certified statement of account explicitly establishes a debt of ₹37,250/-. It was argued that the first respondent is taking immediate, active steps to dispose of her real estate assets to evade financial liability.

7. **The points that arise for consideration are:**

    1.Whether a valid arbitration agreement exists between the parties and whether the dispute is ex-facie arbitrable?

    2.Whether the petitioner has successfully established a prima facie case, balance of convenience, and irreparable injury warranting the exercise of jurisdiction under Section 9 of the Act?

    3.What order is the order to be passed?

8. **Point No. (1):** The petitioner has produced the original copy of the Loan and Guarantee Agreement dated 17.11.2023, marked as Exhibit A1. A perusal of the provisions of the agreement, specifically the dispute resolution section, reveals that the parties had agreed that any operational or financial dispute, including any outstanding amount, shall be referred to a mutually selected sole arbitrator. The existence, validity, and legal binding execution of this arbitration agreement have not been denied, refuted, or challenged by the respondents. The current dispute details a commercial breach arising directly out of a monetary loan transaction, which satisfies the definition of an inherently arbitrable

commercial dispute. Therefore, it is found that a valid arbitration agreement exists and the subject dispute is prima facie arbitrable.

9. **Point No. (2):** For the successful invocation of Section 9 of the Act, the petitioner must satisfy the well-settled tripartite test of injunction, which mandates the establishment of a strong prima facie case, a balance of convenience tilting in its favour, and the imminent occurrence of an irreparable injury that cannot be compensated merely in terms of money. The primary documentary evidence in the form of regular business communications and the Account Statement as on 23.09.2024, which indicates that a sum of ₹37,250/- remains unpaid under the commercial contract. It establishes a bona fide, triable issue and a high probability of succeeding on merits before the Arbitral Tribunal. Hence, it is prima facie established that the first respondent is the absolute title holder of the schedule property who is about to transfer it. In the absence of any rebuttal or conditional security being offered by the respondents, the probability tilts heavily towards the inference that the subject matter requires immediate preservation to prevent a deliberate transfer of the property. If the property is third-party encumbered or completely alienated at this stage, it will adversely affect the forthcoming arbitral process. The balance of convenience, therefore, lies entirely in preserving the status quo of the property. The severe legal injury that would result from the absolute denial of interim protection vastly outweighs any nominal inconvenience caused to the respondent by keeping the land unencumbered for a limited period. Accordingly, Point No. (2) is answered in favour of the petitioner.

10. **Point No. (3):** In view of the findings on Points (1) and (2), this Court finds that it is completely just, fair, and convenient to grant an interim measure of attachment. However, the strict mandate under Section 9(2)

of the Act shall be adhered to, which mandates that where a Court passes an order for interim measures before the commencement of arbitral proceedings, the proceedings must commence within a period of ninety days from the date of such order.

11. In the result, the Petition is allowed on the following terms:

1.The first respondent is hereby restrained by way of an interim injunction from alienating, encumbering, transferring, or creating any third-party rights over the petition schedule property, pending the final constitution of the Arbitral Tribunal.

2.The petitioner shall take steps to ensure that the Arbitral Tribunal is duly constituted, and the arbitral proceedings are formally commenced within a period of ninety days from the date of this order, failing which the interim protection granted herein shall stand automatically vacated upon the expiry of the said ninety days, as provided under Section 9(2) of the Act.

3.The petitioner shall bear its costs in these proceedings.

Prepared and pronounced by me in the open court on this 10th day of June, 2026.

Sd/-

Satheesh Kumar V,

Addl. District Judge-VIII.

APPENDIX

Exhibit Marked on the side of the petitioner:

A1 -17-11-2023- Copy of Loan and Guarantee Agreement

Exhibit Marked on the side of the respondent:Nil

Id/-

Addl. District Judge-VIII.

Mmc

com.by:-

M A (Arb.)No.1107/2025
Order Dated:10.06.2026.