

Misc. Appeal No.39 of 2025
Present: Biswarup Bandyopadhyay, Chief Judge
Order No.3 /dated 26.09.2025:

Today is fixed for hearing of application under Section 5 of the Limitation Act.

Appellants file affidavit of service showing service upon the respondents. Let it be kept with the record.

None is found present on behalf of the respondent.

The case is taken up for hearing of Section 5 application for condonation of delay.

It is submitted by the Ld. Counsel appearing for the appellant that knowledge of passing of the interim order dated 06.06.2025 came to the appellants from the communication of a notice made to the Officer-in-Charge, Barabazar Police Station, whereby police assistance was sought for with a view to taking over possession of the movable articles from the house of the appellants. It is submitted by the Ld. Counsel that no direct notice was served upon the appellants in connection with the pending arbitration proceeding. The Ld. Counsel further seeks condonation of delay as per office report on the given facts and circumstances of the case if there is any delay at all.

Heard the Ld. Counsel for the petitioner/appellant.

Having heard the Learned Advocate for the appellants and also upon perusal of the materials on record, this Court is of the view that the delay in preferring the instant appeal should be allowed.

Hence, the application under Section 5 of the Limitation is hereby allowed condoning the delay.

The appeal is thus stands admitted.

Requisites at once.

Issue notice upon the respondent in both the manners i.e. through court as well as through registered speed post with A/D.

Call for the L.C.R.

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Contd. ...order no.3 dated 26.09.2025:

The Ld. Counsel appearing for the petitioner/appellant moves the application in connection with the prayer for an interim order of stay citing grave urgency.

It is submitted by the Ld. Counsel for the appellants that by an interim order passed by the Ld. Arbitrator under Section 17 of the Arbitration and Conciliation Act Receiver has been appointed in order to recover the movable articles from the possession of the appellants with assistance of police without giving any opportunity of being heard to the appellants. He further submits that in addition to appointment of such receiver the bank accounts of the appellants has also been freezed. It is also the submission of the Ld. Counsel that Section 17 of the Act does not authorize the Ld. Arbitrator to appoint any Receiver to seize articles from possession of the party to the arbitration proceeding.

Heard the Ld. Counsel appearing for appellant. Considered the contentions made in the memo of appeal as well as the stay application and interim order passed by the Ld. Arbitrator.

It appears that the appellants have made out a strong case in his favour in order to avail an interim protection at this stage, specially when none appeared on behalf of the O.P/respondent despite due service of notice.

Therefore, having considered the grave urgency involved in this matter and grounds of Misc. Appeal mentioned in the Memo of Appeal as well as in the stay application, this Court is of the view that an interim order of stay for a short period should be granted. It is made clear that the fate of the stay application shall be decided giving both the sides opportunities of being heard.

Hence, It is

Ordered

that an interim order of stay of operation of the order dated 06.06.2025 passed by the Ld. Arbitrator is granted, till the next date i.e. **03.11.2025**.

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Contd. ...order no.3 dated 26.09.2025:

Accordingly, the Ld. Receiver is not to take any action in terms of the interim order dated 06.06.2025 passed by the Ld. Arbitrator until further order by this Court.

Let a copy of this order be handed over to the Ld. Counsel appearing for the appellants, counter signed by the Bench Clerk for service to the respondent immediately.

Let a copy of this Order also be sent to the Ld. Arbitrator for information.

Appellants is also directed to serve copy of Memo of Appeal along with application for stay to the other side.

Fix **03.11.2025** for S/R, A/D, Appearance, awaiting L.C.R/hearing of stay petitioner, objection if any, in the meantime.

Dictated & corrected by me:

Chief Judge

Chief Judge

City Civil Court, Calcutta.