

Misc. Case No. 289 of 2025
CNR No.WBHW01 005903 2025
Present: Abhijit Som
District Judge, Howrah.
J.O. Code – WB01127

Order No. 02 dated 18.11.2025.

The record is put up on prayer.

An application under Section 9 of the Arbitration & Conciliation Act, 1996 is taking up for hearing.

Heard the learned Advocate on behalf of the petitioners.

It appears that the dispute between the parties arises out of two agreements containing arbitration clause. The property in question was owned by several co-sharers. The first agreement for development was made in between the promoter and some of the co-sharers. The second agreement was made in between the promoter and the co-sharers who were left out in the first agreement. It is the claim of the present petitioners that a G+7 building has been constructed over the schedule 'A' property but the owners' allotment has not been allocated by the developer/promoter. In the meantime one of the co-sharers namely, opposite party no. 2 Biva Das executed a deed of sale in favour of a third party in respect of a flat measuring 242 sq. ft. covered area situated over the 'A' schedule property. It is therefore, stated that in case of any further transfer or alienation of the property without obtaining the specified owners' allocation from the developer, the parties of the other part including the petitioners may suffer irreparable loss. It is further submitted that a notice vide an advocate's letter was issued to all concerned parties requesting to refer the matter to arbitration.

It is no doubt that the arbitration clause in the agreements indicates reference to the arbitration of the dispute between the parties with regard to construction in terms and conditions of the agreement. It is also found that already a part of the property i.e. a flat has been transferred by one of the opposite parties. So, this Court is of the view that the present petitioners have the prima facie case to obtain an order under Section 9 of the Arbitration and Conciliation Act. There is chance of suffering of irreparable loss if no such order is passed as interim measure.

Having considered all aspects, the interim relief in terms of Section 9 of Arbitration & Conciliation Act is granted. The interim injunction as prayed for by the petitioners is allowed to the effect that the opposite parties are hereby restrained from creating any third party interest in respect of the property under agreement by way of alienation or transfer till further order.

The petitioners are directed to serve copy of the order along with the application and annexed documents through registered post and to file an affidavit of compliance to that effect by tomorrow.

Petitioners are directed to file requisites at once for issuance of notice upon the opposite parties.

To date.

Dictated and corrected by me.

D. J.

District Judge, Howrah.