

IN THE COURT OF DISTRICT JUDGE,

SOUTH 24-PARGANAS AT ALIPORE

Misc. Case (Arb.) No. 09 of 2026 (R-09)

Present : Smt. Monikuntala Roy (WB01088) District Judge-in-charge

Kotak Securities Ltd.

... Petitioner

Vs.

Tushar Nandi

... Respondent

Order No. 03, dated 06.03.2026

The date is fixed for hearing of the application for stay.

Petitioner has filed hazira.

Respondent files an application seeking three weeks' time to prepare the Written Objection to the application of the petitioner.

In view of the urgency evident in the instant case, the application for stay is taken up for hearing.

Ld. Advocate for the petitioner prays for an order of unconditional stay of the operation of the Award dated 10th December, 2025, as passed by Shri Tushar Suman Thaker, Ld. Sole Arbitrator, in the Arbitration Proceedings being Arbitration Matter No. NSE-SB-2025-05-212396 manifesting the grounds as stated in the application for stay. Ld. Advocate further submits that the impugned Award is vitiated by fraud and corruption and the Ld. Arbitrator failed to consider that the present dispute is a classic example of a reckless trader engaging in speculative trading and having incurred losses, trying to

shift the burden of the losses on the petitioner. Ld. Advocate for the petitioner further contends that the impugned Award is passed against a deceased person as the application for substitution although filed at a later stage in the arbitration proceeding was not maintainable in the eye of law in view of the judgment **C. Muttu Vs. Bharat Match Works, Sivakasi** reported in **1963 SCC OnLine Kar 88**. As such, Ld. Advocate further contends that the impugned Award is wholly unreasonable, perverse and is unsustainable in law and facts and is, thus, liable to be stayed.

Per contra, Ld. Advocate for the respondent prays for adjournment of three weeks to file Written Objection and submitted that the Award has been passed complying the provisions of law and also contended before the Court that the demise of Shipra Nandi was well intimated to the petitioner in course of proceeding.

Heard the submissions of the Ld. Advocates for both parties.

Perused the record and the materials annexed with it.

Upon perusal of the record, it appears that the instant case has been filed under 36(2) of the Arbitration and Conciliation Act, 1996, seeking stay of the Arbitral Award dated 10th December, 2025, passed by the Ld. Sole Arbitrator in Arbitration Matter No. NSE-SB-2025-05-212396. Vide the impugned Award, the Ld. Sole Arbitrator dismissed the claim of the applicant, being the present petitioner herein, and allowed the counterclaim of the respondent. The Ld. Sole Arbitrator directed the petitioner to pay a sum of Rs. 20,46,254.00 to the respondent together with interest thereon at the rate of 12% per annum from 1st February, 2023, till the date of the Award.

Being aggrieved with the same, the petitioner has filed an application under Section 34 of the Act of 1996 praying for setting aside the impugned

Award and with it, an application under Section 36(2) of the said Act praying for an unconditional stay of the impugned Award.

It is trite law that a Court sitting in appeal of a matter ought to pass an order of interim stay during pendency of a case lest the very purpose of filing of an appeal would be rendered infructuous by delay, however, such an order of stay must be passed on an individual basis and after taking into consideration the facts and circumstances giving rise to the matter. This Court is emboldened to hold such observation in view of the judgment of the Hon'ble Apex Court reported in **2025 LiveLaw (SC) 1144 (Popular Caterers Vs. Ameet Mehta & Ors.)**.

In **Popular Caterers** (supra), the Hon'ble Apex Court held that Section 36(2) of the Act of 1996 which mandates unconditional stay if a *prima facie* case is made out that an arbitration agreement, contract or making of the award was induced or effected by fraud or corruption, the Hon'ble Court held that for granting the benefit of unconditional stay of a money decree or an arbitral award in the form of a money decree, an "exceptional case" must be established, meaning that the Award must be shown to be egregiously perverse, riddled with patent illegalities and facially untenable. The Hon'ble Apex Court held this view in **Popular Caterers** (supra) in view of the judgment reported in **2025 SCC OnLine SC 2153 (Lifestyle Equities C.V and Anr. Vs. Amazon Technologies Inc.)**.

In the instant case, this Court is of the view that the impugned Award as passed by the Ld. Sole Arbitrator does not fall under the rubric of an exceptional case so as to pass an unconditional stay of the operation of the impugned Award, however, given that there is urgency in the matter and if an interim order of stay is not passed, then the purpose of filing of the instant

Misc. Case as well as the Misc. Case No. 8 of 2026 filed under Section 34 of the Act of 1996 shall be defeated by delay and will be rendered infructuous.

Hence, it is,

ORDERED

that the prayer for interim stay stands allowed till the next date i.e. on **28.04.2026**.

Let there be an interim stay of the operation of the Award dated 10th December, 2025, as passed by Shri Tushar Suman Thaker, Ld. Sole Arbitrator, in the Arbitration Matter No. NSE-SB-2025-05-212396 subject to condition that the NSE is directed to transmit the amount of **Rs. 27,48,595.65/-** as per annexure vide page nos. 750 and 751 to the Registry of this Court at Alipore until further order.

Fix **28.04.2026** for further hearing and filing of W/O by the respondent.

Let a copy of this order be sent to National Stock Exchange of India Ltd. as well as the Registrar of this Court at Alipore, South 24 Parganas, for information and compliance.

The matter is otherwise ready for hearing.

Let the instant case be transferred to **Ld. Additional District Judge, 1st Fast Track Court at Alipore, South 24 Parganas**, for hearing and disposal.

Fix **28.03.2026** for appearance before the Ld. Transferee Court.

W/O, if any, in the meantime.

Dictated & corrected by me,

Sd/- Smt. M. Roy

District Judge, I/c

Sd/- Smt. M. Roy

District Judge, I/c