

In the Court of Learned District Judge, South 24-Parganas

Misc.Case No.358 of 2026

Present : Sri Biswarup Bandyopadhyay
District Judge, South 24 Parganas at Alipore
(JO Code : WB001133)

Mandira Dutta

Vs

*SAA Land Developers Private Limited & 04 Ors
(under section 9 of the Arbitration and Conciliation Act, 1996)*

Order No.03, dated 01.07.2026

Today is fixed for hearing of the application under section 9 of the Arbitration and Conciliation Act along with on the point of maintainability.

Petitioner files hazira.

Learned Advocate for the petitioner is present and by filing the application under section 9 of the Arbitration and Conciliation Act prays for an ad interim order of injunction.

As per office report, no caveat has been filed. As such, the application under section 9 of the Arbitration and Conciliation Act is taken up for hearing in respect of the ad interim prayer.

Petitioner's case, in brief, is that in the year 2024 the OP No.3 being the absolute owner of certain plots of land claimed to have formed a partnership firm and a Private Limited Company to plan, design, advertise and sell sub-plots within the 'Nest Valley Part-3' scheme. In October, 2024 the petitioner approached the OP No.3 for purchasing a demarcated sub-plot measuring approximately 5 cottahs 8 chittaks. The agreed consideration amount was fixed at Rs.7,53,500/-. On 27.10.2024 the petitioner paid Rs.5,000/- via UPI into the joint account of OP No.3 and 4. Subsequently, Rs.2,20,000/- was paid on 15.12.2024 through cheque which was encashed on 19.12.2024. Money receipts were issued under the head and seal of the OP No.1 company and signed by OP No.3. OP No.3 assured the petitioner that the boundaries would be legally demarcated and approach roads and drainage would be laid and municipal body acknowledged boundaries would be handed over before executing the final sale deed.

In December, 2025, the petitioner requested a formal agreement for sale and OP No.3 provided a draft agreement. The petitioner explicitly objected to clause-3 of the draft agreement which stated that the company reserved the right to cancel the plot allotment without notice if EMI payments were missed for 03 consecutive months and returning the deposited amount without any interest.

The crux of dispute, as per the contention of the petitioner, is that the balance consideration amount of Rs.5,28,500/- was explicitly agreed to be paid at the time of registration, given the substantial development work were still pending.

On 02.01.2025, when the petitioner appeared before the Notary Public for execution, the noticed Clause No.3 had not been omitted. Upon raising objection, the OP No.3 explicitly added a nota bene clause by hand at the end of page-6 of the agreement which read as "Page No.6/3 No term & condition point is not applicable for Mandira Dutta" This effectively made the cancellation clause not binding upon the petitioner.

Time and again the petitioner made several efforts to find out when the final Deed of Sale would be executed but did not notice any progress on the site development till July, 2025. As a result, she sent a letter to the OP No.2 through her Advocate on 17.05.2025 with a request to commence work but received no reply from the side of the OP.

On 12.09.2025, the petitioner's Advocate received a letter from the OP No.1 Company through its Director/OP No.3 alleging that the petitioner had violated Clause 3 of the agreement by not paying EMIs since 27.10.2024 and claimed the agreement stood terminated with an instruction to take a refund.

Soon thereafter, the petitioner contacted the OP No.3 and highlighted the hand written note which nullified Clause-3, but OP No.3 refused to acknowledge the same.

On 26.06.2026 when the petitioner visited the office of the opposite parties, they threatened her by saying that they had found prospective buyers and were going to transfer the entire suit property to a third party. The matter was reported to Haridevpur P.S. and Bishnupur P.S. but no action was taken to secure the property.

It is the contention of the petitioner that the agreement for sale contains an explicit Arbitration Clause which compels the petitioner to seek interim relief under section 9 of the Arbitration and Conciliation Act, pending the constitution of an arbitral tribunal. Accordingly, prayer has been made for an ad interim relief along with other reliefs.

In support of his contention, Learned Counsel for the petitioner placed reliance on the following judgments :-

(i) Hakam Singh Vs M/s Gammon (India) Ltd reported in 1971 (1) Supreme Court Cases 286; and

(ii) A.B.C. Laminart Pvt. Ltd. & Anr Vs A.P. Agencies, Salem reported in (1989) 2 Supreme Court Cases 163.

Heard Learned Counsel for the petitioner.

As per the submission made by the Learned Counsel, the matter relates to purchase of an immovable property which is situated within the jurisdiction of this court. It is also his submission that by virtue of Section 2(e) of the Arbitration and Conciliation Act, 1996, this court has ample jurisdiction to deal with the issue regarding the immovable property which is the subject matter of this case.

On going through the Arbitration Clause appearing in the agreement entered into between the parties, it appears that the dispute between the parties needs to be resolved through arbitration. The contentions made in the application clearly suggests that there is a prima facie case in favour of the petitioner to go for

arbitration to resolve such dispute as there is an Arbitration Clause being clause no.18 in the agreement executed by and between the parties.

It is the submission of the Learned Counsel for the petitioner that the arbitration proceeding has not commenced as yet, and accordingly, the judgment of the Hon'ble Supreme Court in *Bharat Aluminium Co. Vs Kaiser Aluminium Technical Services Inc.* is not attracted and in the present factual matrix, the judgments of the Hon'ble Supreme Court rendered in the cases of *Hakam Singh Vs M/s Gammon (India) Ltd and A.B.C. Laminart Pvt. Ltd. & Anr Vs A.P. Agencies, Salem* should be relied upon.

Considering the materials available on record and the averments made in the application for temporary injunction, which has been supported by an affidavit, it appears that the petitioner has been able to make out a *prima facie* case in his favour and the balance of convenience and inconvenience is also in favour of the petitioner. If, at this stage, an order of ad-interim injunction is not granted in favour of the petitioner, then the petitioner will suffer irreparable loss and injury. Urgency is also evident from the case record where the vendor intends to sell out the property and there may also arise chances of multiplicity of proceedings if an order of ad-interim injunction is refused at this stage. Accordingly, an interim protection for a limited period of time should be allowed keeping the question of maintainability open which shall be taken up for hearing at the first instance.

Hence,

it is,

ORDERED

that the prayer for an order of ad-interim injunction is allowed in favour of the petitioner till **15.07.2026**.

The opposite parties and their men and agents are restrained from transferring or creating any third party interests in respect of the suit property till **15.07.2026** on condition that the petitioner shall approach the appropriate authority for initiation of arbitration proceedings by appointment of Arbitrator **within ninety (90) days** from the date of this order in terms of Section 9(2) of the Arbitration and Conciliation Act, 1996.

Requisites at once.

Issue notice upon the opposite parties asking them to show cause within 15 (fifteen) days from receipt thereof as to why the instant Misc. Case shall not be allowed in favour of the petitioner.

To date i.e. **15.07.2026** for S/R, A/D and hearing.

Dictated & corrected by me.

Sd/- Biswarup Bandyopadhyay
District Judge
South 24-Parganas

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(WB01133)