

ORDER

OD - 19

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

AP/77/2026

KOBELCO CONSTRUCTION EQUIPMENT INDIA PRIVATE LIMITED
VS
MANISHA DEVI AND ORS

BEFORE
HON'BLE JUSTICE GAURANG KANTH
Date: May 19, 2026.

Appearance:-
Mr. Shaswat Nayak, Adv.
Ms. Antalina Guha, Adv.
Ms. Shinjita Ray, Adv.
Ms. Sweta Burman, Adv.
...for petitioner.

The Court:- Affidavit of service and notice of motion are taken on record.

Despite service none appears on behalf of the respondents.

The petitioner has preferred the present petition under Section 9 of the Arbitration and Conciliation Act, 1996 seeking, inter alia, an order restraining the respondent from dealing with, alienating or disposing of the assets under the agreement No. 187432 dated 15.06.2020 and the settlement agreement dated 17.07.2021.

The case of the petitioner is that the petitioner is the successor in interest of SREI Equipments Finance Limited in terms of the deed of settlement dated 17.07.2021 whereby the loan portfolio of SREI Equipments Finance

Limited including loan No. 187432 dated 15.06.2020 stood assigned to the petitioner. The said assignment was duly intimated to the respondent by letter dated 17.07.2021. Such assignment was also acknowledged by the respondents upon receiving the said intimation dated 17.07.2021, thereafter, the respondents have paid a sum of Rs. 42,21,750/- in favour of the petitioner.

It is submitted that SREI Equipments Finance Limited had advanced a loan of Rs.53,45,469/- to the respondent under the aforesaid agreement for acquisition of two KOBELCO SK220 XDLC - 10 Excavator repayable in 46 instalments from August, 2020 and ending on May, 2024. Despite the assignment and due acknowledgement thereof, the respondent committed default in repayment of the said loan.

Consequently, the agreement was terminated on 21.06.2023 and the entire outstanding amount was recalled. As on 28.02.2026, a sum of Rs.31,99,034/- remains due and payable by the respondent.

Learned Counsel for the petitioner submits that the agreement contains an arbitration clause and that the petitioner intends to invoke the same.

It is further contended that there exists a reasonable apprehension that the respondent may alienate, transfer or create third party rights in respect of the secured assets, thereby frustrating the arbitral proceedings.

Upon consideration of the materials placed on record, this Court is satisfied that the petitioner has made out strong prima facie case. The deed of assignment clearly demonstrates the existence of a subsisting contractual relationship between the petitioner and the respondent.

It is also evident that the respondent had availed of the loan facilities in respect of acquisitions of the said KOBELCO SK220 XDLC - 10 Excavator.

This Court is of the view that the balance of convenience lies in favour of the petitioner. The said assets constitutes the primary security for the loan advanced and any act of alienation, transfer or creation of third party rights therein would seriously prejudice the petitioner's ability to recover the outstanding dues.

On the other hand, the grant of an ex parte order of an injunction preserving the said assets would not cause any irreparable loss or prejudice to the respondent, as the same merely maintains the status quo pending adjudication of disputes through arbitration.

In view of the aforesaid, this Court, in order to secure the ends of justice and preserve the subject matter of arbitration, the respondent, servants, agents, assignees are restrained for a period of four weeks from the date of passing of this order from alienating, encumbering, parting with possession of or creating any third party right in respect of the assets namely KOBELCO SK220 XDLC - 10 Excavator forming part of the subject matter of loan agreement No. 187432 dated 15.06.2020.

The respondent is at liberty to file an affidavit-in-opposition within a period of four weeks. Reply to the same, if any, be filed within two weeks thereafter.

The observations made by this Court are prima facie in nature and shall not have any bearing on the merits of the disputes to be adjudicated by the arbitral tribunal.

List this matter be listed on 30th June, 2026.

(GAURANG KANTH, J.)

R. D. Barua