

Dispute Resolution Hotline

November 04, 2022

INDIA—SCOPE OF INTERIM RELIEFS UNDER THE ARBITRATION ACT ARE WIDER THAN THE THRESHOLD UNDER CIVIL PROCEDURE LAWS GOVERNING LITIGATION (ESSAR HOUSE V ARCELLOR MITTAL)

This article was first published by Lexis®PSL on 18 October 2022.



SUMMARY

Recently, a Division Bench of the Supreme Court in *Essar House Pvt. Ltd. v Arcellor Mittal Nippon Steel India Ltd.*,¹ held that courts are not bound by the rigours of the Civil Procedure Code, 1908 (“CPC”) when deciding an application for grant of interim reliefs under Section 9 of the Arbitration & Conciliation Act, 1996 (“Arbitration Act”). While the principles of the CPC cannot be ignored, at the same time the court is not bound by the same when faced with an application under Section 9 of the Arbitration Act. The Supreme Court further stated that the technicalities of the CPC cannot be used to defeat the ends of justice and the court can grant interim protection under Section 9 of the Arbitration as may appear just and convenient. The Supreme Court also observed that a strong possibility of diminution of assets is sufficient for the court to grant interim reliefs under the Arbitration Act.

While the pro-arbitration approach of the Supreme Court in *Essar* is well appreciated as it settles the differing views of various High Courts, a subsequent judgment by the Supreme Court in *Sanghi Industries Ltd. v Ravin Cables Ltd. & Anr.*² reignited the discourse again. The Supreme Court in *Sanghi Industries* observed that interim relief under Section 9 of the Arbitration Act cannot be granted without satisfying the conditions stipulated under Order 38 Rule 5 of the CPC. The Supreme Court also stated that ‘cogent material’ of the award being defeated by disposing of the properties should be shown basis which interim reliefs under Section 9 of the Arbitration Act can be granted. With this, it remains open for a larger Bench of the Supreme Court to reconcile the contrasting approaches and settle the dust again.

Please click [here](#) for our detailed analysis.

— Ansh Desai, Shweta Sahu & Alipak Banerjee

You can direct your queries or comments to the authors

¹ [2022] SC 625

² SCC OnLine SC 1329

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

M&A In The Indian Technology Sector

February 19, 2025

Unlocking Capital

February 11, 2025

Fintech

January 28, 2025

Research Articles

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against “Unfiltered” Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Arbitration Amendment Bill 2024: A Few Suggestions | Legally Speaking With Tarun Nangia | NewsX

February 12, 2025

**What India's Transition to New Data
Protection Law Means for Global
Businesses**

January 23, 2025

**India 2025: The Emerging
Powerhouse for Private Equity and
M&A Deals**

January 16, 2025
