

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)

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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

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