AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMM ARBITRATION PETITION (L) NO.5482 OF 2026

Leap India Limited
(formerly known as LEAP India Private Limited) a company incorporated under the provisions of the Companies Act, 1956 having its office at 14th Floor, Commerz, Oberoi Garden City, International Business Park, off Western Express Highway, Yashodham, Goregaon East, Mumbai – 400063. … **Petitioner**

Vs.

Radhakrishna Foodland Private Limited,
a company incorporated under the provisions of the Companies Act, 1956 having its office at Radhakrishna House, Majiwade Village Road, Majiwade, Thane (West) - 400 601 … **Respondents…**

Mr. Kunal Parekh i/by Dua Associates for the petitioner.

Mr. Pranav Desai with Shivam S. Dube and Anuja Pawade for the respondent.

CORAM : AMIT BORKAR, J.

RESERVED ON : JUNE 18, 2026

PRONOUNCED ON : JULY 6, 2026

JUDGMENT:

1. The petitioner has filed this petition under Section 9 of the Arbitration and Conciliation Act, 1996. The petitioner has prayed

for disclosure of the respondent's assets, deposit of the awarded amount or furnishing of security, and also an order restraining the respondent from transferring or creating any third party rights in its properties. This petition is based on the arbitral award dated 28 October 2025 passed in disputes arising out of the agreement dated 3 November 2015 read with the addendum dated 30 March 2017.

2. The case of the petitioner is that there was an agreement between the parties for supply and hire of pallets used in supply chain management. According to the petitioner, the respondent took the pallets, used them for its business work, but did not properly return the same. The petitioner also contends that after June 2019 the respondent stopped making payments though it continued using the pallets, and many invoices remained unpaid. The petitioner further contends that the disputes between the parties were referred to arbitration and the learned Sole Arbitrator passed an award on 28 October 2025. According to the petitioner, the award is partly in its favour. The petitioner has also stated that it has challenged part of the award in separate proceedings to the extent it is aggrieved. Still, according to the petitioner, this petition is filed only for interim protection because the conduct of the respondent shows that it may delay or defeat recovery under the award.

3. The main case of the petitioner is that the respondent acted dishonestly and only tried to delay the matter. It is the petitioner's case that though the respondent was informed about the pronouncement of the award, it did not collect the award in time.

According to the petitioner, this conduct shows that the respondent intends to frustrate execution of the award. Therefore, the petitioner contends that unless this Court grants protection, the award may remain only on paper and may not give any real benefit. The petitioner has also submitted that the respondent should be directed to disclose all its assets because the petitioner has no way to know the financial position of the respondent. It is further submitted that the respondent may even become insolvent and may deal with its assets in such a way that the petitioner may not be able to recover anything effectively. On this basis, the petitioner contends that orders for disclosure of assets, deposit of money and restraint against dealing with assets are necessary.

4. The prayer clause in the petition shows that the petitioner seeks deposit of the amount awarded in its favour or suitable security. It also seeks disclosure of all movable and immovable assets of the respondent, its balance sheets, bank statements and income tax returns. The petitioner has also prayed for an order restraining the respondent from creating any encumbrance or transferring its properties. According to the petitioner, these reliefs are necessary to protect the award till it becomes executable as a decree.

5. On the other hand, the respondent has filed a detailed affidavit in reply and has opposed the petition on all material grounds. The main defence of the respondent is that though the petition is filed under Section 9, is an indirect attempt to recover the money awarded. According to the respondent, Section 9 gives only interim protection for preserving the subject matter and

cannot be used for execution or recovery of the decretal amount. The respondent further contends that the petitioner has challenged the award in separate proceedings. Therefore, according to the respondent, the petitioner cannot at the same time ask for coercive relief by treating the award as final and enforceable. The respondent contends that the petitioner cannot take two different stands together. It is also submitted that the award has not yet become final and, therefore, the petitioner cannot claim deposit of money or disclosure of assets as a matter of right.

6. The respondent has also denied the allegation that it delayed collecting the award or acted improperly. According to the respondent, its advocates were in touch with the learned Arbitrator. It is stated that the authorised representative of the respondent could not remain present on the date when the award was pronounced and that the signed copy of the award was received only on 22 January 2026. On that basis, the respondent contends that the period for filing proceedings under Section 34 starts from the date of receipt of the signed copy of the award and it is still within the time permitted by law.

7. The respondent further contends that it is a well established business concern and there is no material to show that it intends to defeat the award or remove its assets. It has denied the allegation that it may become insolvent or that the award will become useless. According to the respondent, these allegations are only based on guess work and there is no evidence to support them. The respondent has also opposed the prayer for disclosure of assets. According to it, such relief cannot be granted as a matter of

course. It is submitted that directions for disclosure, deposit and injunction are serious and discretionary reliefs. Such reliefs can be granted only when the petitioner shows a strong prima facie case, balance of convenience and irreparable loss. According to the respondent, none of these requirements are satisfied in the present case.

8. The respondent has also submitted that the allegations relating to the petitioner's business, supply of pallets and the contractual dispute have been considered in the arbitration proceedings. According to the respondent, those issues cannot again be examined in a petition under Section 9, particularly when the arbitral award has been challenged. Lastly, the respondent contends that the reliefs claimed in the petition are excessive and, if granted, they will affect its running business. It contends that it has sufficient assets, it is financially sound and there is no possibility of dissipation of its assets. On these grounds, the respondent has prayed that the petition be dismissed with costs.

9. The learned Advocate appearing for the petitioner submitted that the respondent is not financially sound and there is a real possibility that it may dispose of its properties to avoid payment under the arbitral award. It is submitted that the respondent deliberately collected the Award only on 22 January 2026 with an intention to delay the execution proceedings. Learned Advocate further submitted that though both parties have filed separate petitions under Section 34 of the Arbitration and Conciliation Act, the petitioner's challenge is only against that part of the Award where some of its claims were rejected. According to him, the part

of the Award which grants relief in favour of the petitioner has not been challenged by the respondent. Therefore, the petitioner is entitled to seek interim protection so that the amount awarded in its favour remains secured during the pendency of the proceedings.

10. On the other hand, the learned Advocate appearing for the respondent opposed the Petition. He submitted that an arbitral award cannot be enforced until the statutory period of ninety days available for filing proceedings under Section 34 of the Arbitration and Conciliation Act expires. According to him, the respondent received a copy of the Award only on 21 January 2026, whereas the present Petition under Section 9 came to be filed before expiry of the said period. He therefore submitted that the present Petition is not maintainable. He further argued that the petitioner has not placed any material on record to show that the respondent is attempting to dispose of its assets or is trying to defeat the execution of the Award. It is also submitted that since the petitioner itself has challenged the Award under Section 34 of the Act, it cannot simultaneously seek reliefs which are in the nature of execution of the same Award. According to him, the powers under Section 9 of the Act are not meant for execution of an award but can be exercised only for granting interim protection in aid of the final relief. In support of these submissions, reliance was placed upon the following decisions:

(i) Telford Marine DMCC Vs. Bhambhani Shipping Limited and Another, Commercial Arbitration Petition No. 727 of 2025 decided on 21 January 2026;

(ii) Essar Oil Limited Vs. United India Insurance Company Limited, (2014) SCC OnLine Guj 6737;

(iii) Centrient Pharmaceuticals India Pvt. Ltd. Vs. Hindustan Antibiotics Ltd., (2019) SCC OnLine Bom 1614.

11. I have considered the rival submissions. The principal objection of the respondent is regarding the maintainability of the present petition under Section 9 after the passing of the arbitral award. According to the respondent, once an award has been passed and the same is challenged under Section 34 of the Arbitration and Conciliation Act, the petitioner cannot seek a direction for deposit of the awarded amount or other similar reliefs under Section 9. The petitioner, on the other hand, submits that Section 9 itself permits grant of interim protection after the award and before its enforcement under Section 36 and, therefore, pendency of a challenge under Section 34 does not take away the jurisdiction of this Court.

12. In my view, the submission of the respondent on this aspect cannot be accepted. The language used in Section 9 makes it clear that the Court has power to grant interim measures not only before commencement of arbitration and during the arbitral proceedings, but also after making of the arbitral award and before it is enforced in accordance with Section 36. Therefore, because the arbitral proceedings have ended by passing of an award, it cannot be said that the jurisdiction under Section 9 comes to an end. The statute keeps that jurisdiction alive till the stage of enforcement of the award. Thus, the present petition cannot be

rejected because it is filed after the award.

13. The respondent has then submitted that the award has been challenged under Section 34 and, therefore, no relief under Section 9 can be granted. This submission also does not appear to be acceptable. After the amendments made to the Arbitration and Conciliation Act, filing of an application under Section 34 does not make the award unenforceable. The award continues to remain enforceable unless the Court grants a separate order staying its operation. Thus, mere pendency of proceedings under Section 34 does not create any legal bar against entertaining an application under Section 9. This legal position now stands settled by the decision of the Supreme Court in *Hindustan Construction Co. Ltd. v. Union of India, (2020) 17 SCC 324*, wherein it has been held that post award protection under Section 9 continues to remain available till enforcement and that pendency of proceedings under Section 34 does not take away such jurisdiction.

14. However, this does not mean that every award holder becomes entitled to an order directing deposit of the awarded amount. Section 9 confers a discretionary jurisdiction. The Court while exercising such jurisdiction is required to examine whether the facts of the particular case justify grant of interim protection. Even after an award has been passed, Section 9 does not become a substitute for execution proceedings. The object of the provision is to preserve and protect the fruits of the award and not to permit its premature execution. Therefore, existence of an award cannot become the sole reason for directing deposit of the entire awarded amount.

15. The petitioner has submitted that after passing of the award its rights have been adjudicated by the learned Arbitrator and therefore the Court should secure the awarded amount. There is force in the submission that once an arbitral tribunal has adjudicated the disputes and has determined the rights of the parties, the position of the award holder stands on a stronger footing than a claimant whose claim is yet to be decided. The Court while considering a post award application under Section 9 cannot ignore this circumstance. The award creates an adjudicated liability subject of course to the challenge permissible under Section 34. Therefore, the threshold for grant of protective relief after the award may not be the same as at the pre award stage.

16. At the same time, the Court must bear in mind that even at this stage the relief sought should remain protective in nature. If the order sought results in execution of the award, then such relief may travel beyond the scope of Section 9. The distinction between securing the award and enforcing the award cannot be lost sight of. A direction intended to preserve the efficacy of the award till the challenge proceedings attain finality stands on a different footing than a direction which satisfies the award itself before the statutory challenge is decided.

17. The petitioner has relied upon the conduct of the respondent. It is submitted that the respondent avoided taking delivery of the signed copy of the award, attempted to delay the proceedings and has acted in a manner showing intention to defeat enforcement. It is also submitted that unless disclosure of assets and deposit of the awarded amount are directed, the

respondent may diminish or deal with its assets and make the award meaningless.

18. The respondent has denied these allegations. According to the respondent, there was communication with the learned Arbitrator regarding collection of the signed award. It is submitted that the respondent received the signed copy only on 22 January 2026 and thereafter proceeded in accordance with law. The respondent further contends that it is a well established organisation carrying on business and there is no material placed before the Court showing that it is disposing of its assets, becoming insolvent or attempting to defeat the award. It is submitted that mere allegations and apprehensions cannot justify such drastic interim orders.

19. In my opinion, the submission of the respondent on this limited aspect deserves acceptance. The pleadings placed before this Court contain allegations regarding dishonest conduct and attempts to delay recovery. However, so far as the prayer for directing deposit of the awarded amount is concerned, the Court must look for some material indicating a real possibility that recovery of the award may become impossible or substantially difficult. Mere existence of an award or mere pendency of proceedings under Section 34 cannot justify such a direction. Similarly, general allegations that the respondent may deal with its assets in future, without supporting material showing a real likelihood of such conduct, would not be sufficient.

20. It is true that proof of actual alienation of assets is not always necessary. The Court is not expected to wait until the entire property disappears before granting protection. If the surrounding circumstances indicate that the respondent is likely to dissipate its assets, the Court can intervene. The jurisdiction under Section 9 is preventive in nature. Nevertheless, the apprehension placed before the Court must have some factual foundation. It cannot rest only upon suspicion.

21. The principles governing exercise of this jurisdiction have been explained in several decisions. In *Essar House (P) Ltd. v. Arcellor Mittal Nippon Steel (India) Ltd. (2022) 20 SCC 178*, the Supreme Court observed that Section 9 confers wide powers upon the Court to secure the amount in dispute after the award and before enforcement, though the ordinary principles governing interim relief continue to guide the exercise of discretion. Likewise while strict provisions of Order XXXVIII Rule 5 of the Code of Civil Procedure may not apply, the principles requiring some material showing likelihood of frustration of recovery cannot be ignored.

22. The Court has to examine the facts of each case independently. The award strengthens the petitioner's position. It does not dispense with the necessity of establishing circumstances which make protective orders necessary.

23. Viewed from this angle, the jurisdiction under Section 9 remains available to this Court. Reliefs such as disclosure of assets, furnishing of security, restraint against alienation or, in an appropriate case, even deposit of money, can be granted after the

award and before its enforcement. But such relief must always remain proportionate to the material placed before the Court and must operate as a measure to secure the award rather than as a mode of execution. It is only after examining whether the petitioner has succeeded in establishing such factual foundation that the Court can determine the nature and extent of interim protection, if any, which deserves to be granted.

24. In view of the foregoing discussion, and upon overall assessment of the material record, the following order is passed:

(a) The Arbitration Petition is partly allowed;

(b) The Respondent shall, within a period of four weeks from today, file on oath an affidavit disclosing its movable and immovable assets, including details of all immovable properties owned by it, particulars of bank accounts maintained by it, investments, and such other assets as are necessary to ascertain its financial position;

(c) The Respondent shall also disclose whether any encumbrance, transfer or creation of third party rights has been effected in respect of its immovable assets after the date of the arbitral award and, if so, furnish particulars thereof;

(d) The prayer seeking a direction to the Respondent to deposit the awarded amount in this Court is rejected at this stage, as the material presently placed on record is not sufficient to establish a likelihood of dissipation of assets;

(e) The prayer seeking a injunction restraining the Respondent from dealing with all its assets is also rejected at this stage, there being no sufficient material to justify such restraint;

(f) It is, however, clarified that if the petitioner subsequently places before this Court any material showing that the Respondent is attempting to alienate, dissipate or otherwise deal with its assets, it shall be open to the petitioner to seek appropriate interim reliefs in accordance with law;

(g) The observations made in this order are prima facie in nature and are confined to the adjudication of the present petition under Section 9 of the Arbitration and Conciliation Act, 1996. They shall not influence the proceedings pending under Section 34 of the Arbitration and Conciliation Act, 1996 or any execution proceedings that may arise thereafter;

(h) There shall be no order as to costs.

(i) All pending interim applications, if any, stand disposed of.

(AMIT BORKAR, J.)