

CASELINE: THE LEGAL BRIEF

The Delhi High Court, in a decision concerning interim relief under the Arbitration and Conciliation Act, 1996 ("Arbitration Act"), has clarified that courts exercising jurisdiction under Section 9 of the Arbitration Act cannot revive contracts that have already terminated under their self-operative contractual clauses.

The dispute arose out of two Share Purchase Agreements ("SPAs") executed between JLT Energy 9 SAS ("**Appellant**") and Hindustan Cleanenergy Limited & Ors. ("**Respondents**") for acquisition of solar power projects located in Tamil Nadu and Bihar. The SPAs formed part of a composite commercial transaction and were contractually interdependent, with completion of the Tamil Nadu SPA constituting a Condition Precedent ("CP") to completion of the Bihar SPA.

Under the SPAs, several CPs were required to be fulfilled prior to the Closing Long Stop Date ("CLSD"), including conversion of the project land from agricultural to non-agricultural use ("NA Conversion Condition"). The parties had agreed that if the CPs were not fulfilled within the CLSD, the SPAs would automatically terminate.

The original CLSD of April 30, 2025 was extended by one month by mutual agreement until May 31, 2025. However, the NA Conversion Condition remained unfulfilled.



The Appellant argued that the parties had thereafter agreed, through email correspondence, contemporaneous conduct, and circulation of draft amendment documents, to convert the NA Conversion Condition from a CP into a Condition Subsequent, while also extending the CLSD further.

Disputes eventually arose between the parties regarding the subsistence of the SPAs and the consequences of non-fulfilment of the CPs. The Appellant initiated arbitration proceedings under the Singapore International Arbitration Centre Rules and secured an Emergency Award restraining the Respondents from creating third-party rights in the project assets.

Thereafter, the Appellant approached the Delhi High Court under Section 9 of the Arbitration Act seeking continuation of interim protection. The learned Single Judge, however, dismissed the petition on the ground that the SPAs had already stood automatically terminated under the contractual framework itself due to non-fulfilment of the CPs within the CLSD.

Aggrieved by the said order, the Appellant preferred the present appeal under Section 37 of the Arbitration Act.



I. LEGAL FRAMEWORK

The dispute involved interpretation of key contractual and statutory principles governing arbitration and interim relief under the Arbitration Act:

- i. Section 9 of the Arbitration Act confers upon courts a limited and protective jurisdiction to grant interim measures in aid of arbitration proceedings.
- iii. Section 37 of the Arbitration Act provides a restricted appellate remedy against certain orders passed under the Arbitration Act, including orders under Section 9.
- iii. The dispute also involved interpretation of contractual provisions governing CPs, Conditions Subsequent, CLSDs, and automatic termination clauses in commercial agreements. The Court examined the enforceability of self-operative termination provisions that contractually extinguish agreements upon non-fulfilment of agreed conditions within stipulated timelines;



II. ISSUE BEFORE THE COURT

The principal issue before the Delhi High Court was whether interim protection under Section 9 of the Arbitration Act could still be granted when the underlying SPAs had terminated automatically due to non-fulfilment of CPs within the agreed timelines.

The Court also examined whether the parties had validly modified the SPAs by converting the NA Conversion Condition into a Condition Subsequent.

III. JUDICIAL ANALYSIS

The Court reiterated that appellate jurisdiction under Section 37 of the Arbitration Act is extremely limited. The Court observed that an appellate court does not rehear the matter on merits or substitute its own interpretation unless the order passed by the lower court is arbitrary, or legally unsustainable. The appellate interference is not warranted merely because another view may also be possible.

The Court examined the structure of the SPAs and noted that the agreements expressly provided for automatic termination if the CPs remained unfulfilled



According to the Court, this clause was self-operative and did not require any further notice or declaration from either party. Hence, the SPAs automatically terminated.

The Court further distinguished precedents relating to agreements for sale of immovable property and observed that the present transaction involved acquisition of shares in project entities pursuant to a time-sensitive commercial arrangement. In view of the contractual structure, including the automatic termination mechanism, the Court held that time was expressly of the essence.

The High Court further noted that the conversion of the NA Conversion Condition into a Condition Subsequent was never formally completed. The SPAs specifically required all amendments and waivers to be in writing and signed by all parties. Since the draft amendment remained unsigned and the emails did not satisfy the agreed contractual procedure, therefore, no valid modification had taken place

The Court emphasized that Section 9 of the Arbitration Act jurisdiction is protective in nature and cannot be used to revive contractual rights that no longer exist. Once the Court reached a prima facie conclusion that the SPAs had already terminated by operation of the contract itself, interim protection could not be granted merely to preserve the commercial arrangement pending arbitration.



The Court relied upon *Raffles Design International (India) (P) Ltd. v. Educomp Professional Education Ltd.* reiterated that an Emergency Award passed under institutional arbitration rules does not bind Indian courts exercising jurisdiction under Section 9 of the Arbitration Act. The Indian courts must independently assess whether the statutory requirements for interim relief are satisfied.

The Court additionally noted that the Emergency Arbitrator had proceeded on a limited evidentiary record and on the lower threshold of a “reasonably arguable case,” whereas proceedings under Section 9 required an independent examination of the statutory requirements governing interim injunctions.

Applying the settled principles governing injunctions, the Court found that the Appellant had failed to establish a subsisting contractual right, irreparable harm, or a balance of convenience in its favour.

IV. DECISION AND KEY TAKEAWAYS

The Delhi High Court held that the NA Conversion Condition remained a CP and admittedly remained unfulfilled even after expiry of the extended CLSD. Since no valid amendment extending the timeline or modifying the contractual framework had been executed, the SPAs stood automatically terminated under its terms.



Accordingly, the Division Bench dismissed the appeal and upheld the order passed by the learned Single Judge to refuse to grant interim relief. While doing so, the Delhi High Court reiterated the following key principles:

- i. Courts exercising jurisdiction under Section 9 of the Arbitration Act cannot revive contracts that have automatically terminated under self-executing contractual clauses.
- ii. Where commercial agreements expressly provide for automatic termination upon non-fulfilment of CPs, such clauses operate automatically without requiring any separate declaration.
- iii. Contractual amendments must strictly comply with the contractual process provided in the agreement and cannot ordinarily be done through informal communication or unsigned amendment drafts.
- iv. Section 9 of the Arbitration Act jurisdiction is protective and ancillary in nature and cannot be used to grant substantive final relief.
- v. Interim injunctions can only be granted when the applicant establishes a prima facie case, balance of convenience, and irreparable injury

