



Neeta Sawant

CARBP(L)NO./40015/2025

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

COMMERCIAL ARBITRATION PETITION (L) NO. 40115 OF 2025

Messse Frankfurt Trade Fairs India Pvt.
Ltd.

...Petitioner

Versus.

Netlink Solutions India Limited and
Others

...Respondents

Mr. Navroz Seervai, Senior Advocate with Mr. Sharan Jagtiani, Senior Advocate, Mr. Pradeep Bakhru, Mr. Piyush Kranti & Ms. Aishwarya Patwa i/b Wadia Ghandy & Co., for Petitioner.

Mr. Ashish Kamat, Senior Advocate with Mr. Shrey Fatterpekar i/b Mr. Bankim Gangar, for Respondent No. 1 & 3

Mr. Shanay Shah i/b Ms. Drasti Jani, for Respondent No. 2

Mr. Vishal Kanade with Mr. Pranav Nair & Mr. Omkar Khanvilkar, for Respondent No. 5

Mr. Rashmin Khandekar with Mr. Kartik Gantha & Mr. Rishabh Shah, for Respondent No. 6

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CORAM: SANDEEP V. MARNE, J.

RESERVED On : 19 January 2026.

Pronounced On : 21 January 2026.

Judgment:

1) This is a Petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 (**the Arbitration Act**) seeking interim measures before commencement of the arbitral proceedings. The Petition is filed

under an apprehension that the exhibitions titled 'Indian Gifts & Premium Show' and 'PPS Expo-Pen, Paper & Stationery Show' are being held from 22 January 2026 to 24 January 2026 at Jio World Convention Center, Mumbai in breach of 'non-compete and non-solicit' clauses of the Asset Purchase Agreement (**APA**) read with amended Asset Purchase Agreement (**amended APA**) executed between Petitioner and Respondent Nos.1 and 3. Accordingly, the Petition is filed for restraining the Respondents from holding the impugned exhibitions, for deposit of amount of Rs.2.50 crores towards damages, expenses and opportunity loss and for other related reliefs.

2) Petitioner is wholly owned subsidiary of Messe Frankfurt GmbH, a company headquartered in Frankfurt, Germany, which is claimed to be globally recognised as one of the largest organisers of trade fairs, congresses and events. Petitioner is an incorporated entity in India and is engaged in the business *inter-alia* of organising, managing, holding and conducting trade fairs, exhibitions and conferences in India. Respondent No.1 is also an incorporated entity, which has a long-standing presence in the Indian exhibition industry. Respondent No.3 is the founder director of Respondent No.1. With a view to establish a strong presence in Indian market in the stationery and writing article industry, Petitioner entered into a strategic collaboration with Respondent No.1 for jointly conceptualizing and conducting trade exhibitions in the said segment. Accordingly, Petitioner and Respondent Nos.1 and 3 executed Asset Purchase Agreement (**APA**) dated 24 September 2018, under which Respondent Nos.1 and 3 sold intellectual property (trademarks) domain names, goodwill, databases and other assets in favour of the Petitioner in relation to three shows of Respondent No.1 viz., 'Stationery and Write Show, Corporate Gifts Show and House-ware and Kitchenware show' for total consideration of Rs.15,24,59,107/-. The Agreement contains 'non-

compete and non-solicit' clause under which Respondent Nos.1 and 3 agreed not to carry on or engage in or associate with any business similar to or competing with the same business assets for a period of five years after the closing date.

3) Due to disruptions caused by Covid-19 pandemic, the exhibition scheduled in the years 2020 and 2021 could not be held and since the payment structure under the APA was linked to the financial performance of exhibitions during 2019 to 2022, the parties extended the performance period to include the exhibitions scheduled for 2023 and 2024. Accordingly, amended APA was executed between the parties. According to the Petitioner, Respondent No.2 -Mr. Rakesh Desai, who was then the representative of Respondent No.1 for exhibitions, was also named in the 'non-compete non-solicit' clause.

4) In accordance with Clause 5.1(f) of the APA, Respondent No.1 was to provide consultation and cooperation services to the Petitioner for conducting exhibitions in 2019, 2020, 2021 and 2022. Respondent No.1 accordingly provided the agreed services to the Petitioner and Petitioner paid to Respondent No.1 Rs.55,78,541/- for shows held in 2019, Rs.62,82,458/- for shows held in 2022, Rs.1,43,27,939/- for shows held in 2023 and Rs.1,95,16,455/- for shows held in 2024. The Respondent Nos.1 and 3 effected their exit in the year 2024 and accordingly, the non-compete clause prevented them from doing any similar exhibition business till the year 2029. Petitioner claims that it learnt through interactions with market sources and business counterparts that attempts were being made to breach the APA and amended APA and that such attempts were orchestrated *inter alia* by Respondent No.2. Petitioner accordingly engaged independent professional viz., IIRIS Consulting Services Pvt. Ltd. (IIRIS), which submitted report dated 4 December 2025.

5) Respondent No.6 is an Association of Persons and is an association of distributors, wholesalers, dealers and other stakeholders and claims be the organizer of 'Indian Gifts & Premium Show' and 'PPS Expo-Pen, Paper & Stationer Show' scheduled to be held from 22 January 2026 to 24 January 2026 at the Jio World Convention Centre, Mumbai (**impugned exhibitions**). According to the Petitioner, the impugned exhibitions are being held in breach of the APA and amended APA and has accordingly filed the present Petition under Section 9 of the Arbitration Act seeking following interim measures:-

(a) pending the constitution of the arbitral tribunal, hearing and final disposal of the proposed arbitral tribunal proceedings and the making and implementation of the award therein, this Hon'ble Court be pleased to pass an order of injunction restraining the Respondents, their directors, officers, servants, agents, employees, representatives, assigns and/or any other persons claiming through, under or on their behalf, from in any manner holding, organising, conducting, managing, participating in, assisting, facilitating, promoting and/or otherwise being concerned, whether directly or indirectly, with the exhibitions titled "Indian Gifts & Premium Show" and "PPS Expo - Pen, Paper & Stationery Show", scheduled to be held from 22nd January 2026 to 24th January 2026 at the Jio World Convention Centre, Mumbai, or any event of a similar nature or description which directly competes with the Petitioner's shows, sought to be held during the said period or shortly thereafter;

(b) pending the constitution of the arbitral tribunal, hearing and final disposal of the proposed arbitral tribunal proceedings and the making and implementation of the award therein, this Hon'ble Court be pleased direct the Respondents, jointly and/or severally, to deposit with this Hon'ble Court an aggregate amount in the sum of Rs. 2,50,00,000/-[Rupees Two Crores and Fifty Lacs Only] being the damages, expenses incurred and opportunity loss borne by the Petitioner;

(c) pending the constitution of the arbitral tribunal, hearing and final disposal of the proposed arbitral tribunal proceedings and the making and implementation of the award therein, this Hon'ble Court be pleased direct Respondent No.6 to file a duly affirmed affidavit on oath, setting out full, true, and complete particulars of its involvement, participation, and/or association, whether direct or indirect, in the exhibitions titled "Indian Gifts & Premium Show" and "PPS Expo Pen, Paper & Stationery Show", scheduled to be held from 22nd January 2026 to 24th January 2026 at the Jio World Convention Centre, Mumbai, and to specifically disclose the nature and extent of its role, if any, in the organisation, facilitation, or promotion of the said exhibitions;

(d) In the alternative to prayer clauses (a) to (c) hereinabove, pending the constitution of the arbitral tribunal, hearing and final disposal of the proposed arbitral tribunal proceedings and the making and implementation of the award therein, this Hon'ble Court be pleased direct Respondent Nos. 1, 2 and 3 to file a duly affirmed affidavit on oath, setting out full, true, and complete particulars, and categorically stating and confirming that they have not, whether directly and/or indirectly, engaged in, participated in, contributed to, or been concerned

in any manner whatsoever with the organisation, conduct, management, participation, assistance, facilitation, or promotion of the exhibitions titled "Indian Gifts Premium Show" and "PPS Expo Pen Paper and Stationery Show", scheduled to be held from 22nd January 2026 to 24th January 2026 at the Jio World Convention Centre, Mumbai, or any other exhibition or event of a similar nature, which directly compete with the Petitioner's shows;

(e) for interim / ad-interim reliefs in terms of prayer clauses (a) to (d) above;

(f) for cost of this Petition; and

(g) for such further and other reliefs as the nature and circumstances of the case may require.

6) Petitioner claims that Respondent Nos.1 and 3, who are signatories to APA and amended APA, are associated with the impugned exhibitions. It is claimed that Respondent No.3 is involved in financial planning behind the impugned exhibitions. It is further claimed that Respondent No.2, who is ex-employee of Respondent No.1, is actually playing a central role in conceptualizing and conducting of the impugned exhibitions. Respondent Nos.4 to 6 are described as facilitating the breaches committed by Respondent Nos.1 to 3. It is claimed that Respondent No.4-Company is the alter ego of Respondent Nos.1 to 3, who is employed as a conduit to channel funds, coordinate logistical records, disseminate promotional material and engage with exhibitors. Respondent No.5 is the event manager described as having close relationship with Respondent Nos.1 to 3.

7) By order 19 December 2025, this Court, while permitting filing of affidavits by Respondents, directed that steps taken by Petitioner and Respondents shall be at their own risks and consequences. Respondent Nos.1 to 4 and 6 have filed their respective Affidavits-in-Reply opposing the Petition. The Petition is accordingly taken up for hearing and final disposal.

8) Mr. Seervai, the learned Senior Advocate appearing for the Petitioner takes me through the 'non-compete and non-solicit' covenants in the APA and amended APA. He submits that the said covenants operate

between the period commencing on 3 January 2024 till 29 May 2029. That the amended APA made non-compete and non-solicit covenants applicable even to Respondent No.2. That Respondent No.2 has falsely claimed ignorance about reflection of his name in the amended APA in his Affidavit-in-Reply, which is belied by email dated 30 July 2021 addressed by Respondent No.3 to Petitioner, with copy marked to Respondent No.2. That in January 2025, Petitioner learnt that Respondent Nos.1 to 3 in concert with Respondent Nos.4 to 6 were playing pivotal roles in organisation planning and management of the impugned exhibitions, which are scheduled to be held only one month before Petitioner's exhibition scheduled to be held in February 2026. That Respondent No.2 is shown to have tendered his resignation from services of Respondent No.1 on 20 March 2025 due to pre-occupation of other assignments and that the resignation is not attributable to Petitioner's refusal to employ him.

9) Mr. Seervai relies on report of IIRIS to demonstrate involvement of each of the Respondents in organisation of the impugned exhibitions. About Respondent No.1, he submits that it is acting through alter egos/fronts involved in organisation of impugned exhibitions. That the address of Corporate Gifts Association of India (**CGAI**) is same as that of Respondent No.1, at whose exhibition held on 19 and 20 September 2025, Respondent No.2 was seen promoting the impugned exhibitions. That Respondent No.1 has utilised its vendor named Artel Solutions Pvt. Ltd. (**Artel**) as an intermediary to channel funds for the impugned exhibitions. That Respondent No.2 is closely associated with Respondent No.1 and is acting as front and alter ego of Respondent No.1. That Respondent No.2 continues to operate from office of Respondent No.1 and was seen at that office by the private investigators. That Respondent No.2 also maintains close association with promoters of Respondent No.5. That

Respondent No.2 is involved in helping Respondent No.6, who has no experience in organising exhibitions.

10) Mr. Seervai further submits that Respondent No.3 and his wife were directors of Respondent No.4 till 24 January 2024 and continue to be its shareholders till date. That Respondent No.3 is closely associated with partners of Respondent No.5, who has made payment for booking the venue for impugned exhibitions. That Respondent No.5 maintains close association with Respondent Nos.2 and 3 and also with Respondent No.1. That Respondent No.5 has received monies from Respondent No.1 routed through Artel. That Rs.60,00,000/- is paid by Ms. Kashvi Chechani, daughter of Praksh Chandra Chechani, who is the chartered accountant of Respondent Nos.1 and 3. That Respondent No.6, who is shown as ostensible organiser of impugned exhibitions, has no expertise of organising exhibition or trade show of such magnitude. That Respondent No.6 has appointed Respondent No.5 as the event organiser, who has close association with Respondent Nos.1 to 3. Mr. Seervai has placed on record transcript of call recordings between Respondent No.2 and Ms. Greta Cardoza, the Manager of Zest Services, a business associate of the Petitioner to demonstrate that Respondent No.2 is involved in planning and organisation of the impugned exhibitions.

11) Mr. Seervai further submits that in a case like present one, the courts have consistently held that a party cannot be expected to produce direct evidence for obvious reasons and that court needs to give due weightage to circumstantial evidence. In support of his contentions, he relies on the judgments in Yeshwant Deorao Deshmukh Versus. Walchand Ramchand Kothari ¹, Maharashtra State Board of Secondary and Higher Secondary Education Versus. K.S. Gandhi and Ors. ², Trishala Jain and Anr.

¹ 1950 SCC 766

² (1991) 2 SCC 716

Versus. State of Uttaranchal and Anr. ³ , *Commissioner of Income Tax West Bengal Versus. East Coast Commercial Company Ltd.* ⁴ , and *Securities and Exchange Board of India Versus. Kishore R. Ajmera* ⁵ .

12) Mr. Seervai submits that the affidavits filed by Respondent Nos.1 to 4 and 6 merely contain bald denials and are riddled with glaring inconsistencies. He highlights the inconsistency in the stand taken by Respondent No.2 about ceasing to use premises of Respondent No.1 after resignation as against stand taken by Respondent Nos.1 and 3 in their Reply that they have let Respondent No.2 use the premises even after resignation due to long standing relationship. Similarly, he highlights contention of Respondent No.2 in his reply that Petitioner's email 28 March 2024 caused Respondent No.2 to resign whereas Respondent Nos.1 and 3 have asserted that the resignation was on account of Respondent No.1 being wound up.

13) Mr. Seervai submits that even though Respondent Nos.4 to 6 are not signatories to APA and amended APA, this Court can make interim measures against them in exercise of powers under Section 9 of the Arbitration Act. In support, he relies upon judgments of Delhi High Court in *M/s. Value Advisory Services Versus. M/S. ZTE Corporation and Others* ⁶ , and *Blue Coast Infrastructure Development (P) Ltd. Versus. Blue Coast Hotels Ltd and another*⁷. In support of his contention that non-signatories to arbitration agreement can be impleaded as parties to arbitration, he relies on judgments in *Chloro Controls India (P) Ltd. Versus. Severn Trent Water Purification INC*⁸, *Ameet Lalchand Shah and others Versus. Rishabh*

³ (2011) 6 SCC 47

⁴ 1966 SCC OnLine SC 181

⁵ (2016) 6 SCC 368

⁶ 2009 SCC OnLine Del 1961

⁷ 2020 SCC OnLine Del 1897

⁸ 2013 1 SCC 641

Enterprises and another ⁹, ONGC Ltd. Versus. Discovery Enterprises (P) Ltd. and another ¹⁰, and Cox and Kings Ltd. Versus. SAP India (P) Ltd. ¹¹.

14) Mr. Seervai would accordingly submit that the Petitioner has made out a *prima facie* case demonstrating that Respondent Nos.1 to 3 acting in concert and connivance with Respondent Nos.4 to 6 are organizing and holding the impugned exhibitions in breach of non-compete and non-solicit covenants in the APA and amended APA. He therefore prays for making the Petition absolute in terms of the prayers made therein.

15) Mr. Kamat, the learned Senior Advocate appearing for Respondent Nos.1 and 3 opposes the Petition submitting that the Petition merely makes an illusion of cause of action, when none exists in reality. He accuses Petitioner of gross delay by contending that it is Petitioner's own case that it acquired knowledge about the impugned actions in January 2025. However, the Petition is filed and moved at the last minute after waiting for over a year. That the Petition is full of conjunctures, assumptions and is based on absence of cogent evidence of association of Respondent Nos.1 or 3 with the impugned exhibitions. That the Petition is based purely on the report of IIRIS, which is merely a private agency engaged by Advocates of Petitioner solely for the purpose of filing of the present Petition. That the report of IIRIS does not name the sources and claims no responsibility in respect of conclusions reached therein. That the report is abridged version and not a primary document. Relying on judgment of Patna High Court in Mukesh Kumar Singh V/s. State of Bihar and others ¹² he submits that it is dangerous to rely upon such speculative report.

⁹ (2018) 15 SCC 678

¹⁰ 2022 8 SCC 42

¹¹ 2024 4 SCC 1

¹² Later Patent Appeal No. 1228 of 2018 decided on 17 July 2019

16) Mr. Kamat accuses Petitioner of suppressing email dated 28 March 2024 in response to request of Respondent No.3 to employ Respondent No.2. He submits that while rejecting the request for employment of Respondent No.2, Petitioner took a position that it was willing to accept losses but would not take Respondent No.2 on board, which led to tendering of resignation of Respondent No.2. That suppression of the said email disentitles the Petitioner from seeking any equitable relief. He relies on judgment of the Apex Court in Bhaskar Laxman Jadhav and Ors. Versus. Karmaveer Kakasaheb Wagh Education Society and Ors.¹³, Dalip Singh Versus. State of Uttar Pradesh and Others¹⁴ and of this Court in Shantappa alias Shantesh S. Kalasgond Versus. M/s. Anna¹⁵.

17) Mr. Kamat further submits that Respondent Nos.1 and 3 have no association with Respondent No.2 or with Respondent Nos.4 to 6. He takes me through the affidavit-in-reply of Respondent Nos.1 and 3 to buttress the submission. He submits that the principle of lifting corporate veil cannot be applied to in relation to contractual disputes and relies on judgment in Sudhir Gopi Versus. Indira Gandhi National Open University and another¹⁶. Lastly, he relies on judgment of Delhi High Court in Varun Tyagi Versus. Daffodil Software Pvt. Ltd.¹⁷ in support of contention that non-compete clause deserves strict construction and cannot be enforced on speculative cause of action. He prays for dismissal of the Petition.

18) Mr. Shah, the learned counsel appearing for Respondent No.2 also opposes the Petition submitting that Respondent No.2 is not a party to APA or amended APA and hence not bound by the non-compete

¹³ 2013 11 SCC 531

¹⁴ 2010 2 SCC 114

¹⁵ Judgment dated 30 November 2023 passed in A.O. No.915 of 2023

¹⁶ 2017 SCC OnLine Del 8345

¹⁷ 2025 SCC Online Del 4589

clause. He submits that Petitioner has not been able to demonstrate association of Respondent No.2 with the impugned exhibitions in any manner. That mere spotting of Respondent No.2 at an exhibition organised by CGAI cannot be a reason for assuming that Respondent No.2 was promoting the impugned exhibitions. That CGAI is non-profit body comprising of 800 members and mere presence of Respondent No.2 at exhibition of CGAI cannot be a ground for assuming that Respondent No.2 is organising the impugned exhibitions. He strongly objects to production of alleged transcript of telephonic conversation with Ms. Greta Cardoza, which is not supported by affidavit. He submits that IIRIS report is not based on any credible evidence and clearly clarifies that the same does not independently guarantee absolute accuracy. He submits that Respondent No.2 has resigned from Respondent No.1 and is otherwise not bound by any contractual covenants of APA executed by Respondent No.1 in view of provisions of Section 27 of the Indian Contract Act, 1872. In support he relies on judgment of this Court in VFS Global Services Pvt. Ltd. Versus. Suprit Roy¹⁸. He prays for dismissal of the Petition.

19) Mr. Khandekar, the learned counsel appearing for Respondent No.6 submits that the Petition is grossly delayed as Respondent No.6 had informed Petitioner about the impugned exhibitions on account of its silver jubilee in January 2025 itself. That Respondent No.6 has openly and transparently proceeded with planning of the exhibition, booking of venue, appointment of event managers, etc. That the impugned exhibitions have been advertised in various social media. He submits that Respondent No.6 is third party to the arbitration agreement and therefore no relief can be granted against it. He submits that relief under section 9 cannot be granted against property of third party. That subject matter of arbitration is property of Respondent No.6 and therefore no order *qua* such property can

¹⁸ 2007 SCC Online Bom 1083

be made under Section 9 of the Arbitration Act. In support, he relies on judgment of this Court in *Hemant D. Shah and others Versus. Chittaranjan D. Shah and others*¹⁹. He submits that no reliefs can be granted against a party who is not signatory to the arbitration agreement and relies on judgments in *Gulshan Townplanners LLP V/s. Gulshan Co-op. Housing Society Ltd. And another*²⁰, *M/s. Mukesh Patel and others Versus. Pant Nagar Ganesh Krupa Cooperative Housing Society*²¹ and *HPCL Versus. BCL Secure Premises Pvt. Ltd.*²². He relies on contract executed with Respondent No.5 for organising the event. He submits that Petitioner is attempting to overstretch the application of non-compete covenant executed with Respondent Nos.1 and 3 to third parties. He prays for dismissal of the Petition.

20) Mr. Kanade, the learned counsel appearing for Respondent No.5 submits that his client is merely acting as event manager and that beyond making bald averments of close professional and commercial ties of partners of Respondent No.5 with Respondent Nos.1 to 3, no attempt is made to establish that Respondent No.5 has any connection with the APA or amended APA. That there is no averment or material to show that Respondent No.5 is acting for Respondent Nos.1 to 3. That Petitioner cannot claim monopoly in the business and mere execution of APA with Respondent No.1 does not mean that no other entity can hold exhibitions in the areas covered by the APA. He also prays for dismissal of the Petition.

21) Rival contentions of the parties now fall for my consideration.

¹⁹ Appeal No. 658 of 2006 decided on 5 September 2006

²⁰ 2024 SCC OnLine Bom 3111

²¹ 2025:BHC-OS:18704

²² 2025 SCC OnLine SC 2746

22) Petitioner is a subsidiary of Messe Frankfurt GmbH, which is a German based company and claims to be globally acknowledged for organising trade fairs, congresses and events. It has set up an Indian arm (Petitioner) for doing exhibition business in India. Respondent No.1 is also well established in organising exhibitions and trade fairs in India and has long standing presence in India since 1984. Petitioner got itself associated with Respondent No.1 for establishing its presence in India and entered into commercial transaction, under which it decided to purchase the business and assets of Respondent No.1 in relation to three exhibitions of Respondent No.1 in 'Stationery and Write Show', 'Corporate Gifts Show' and 'Houseware and Kitchenware show'. However, for initial four years, Petitioner decided to associate with Respondent No.1 for organisation of exhibitions during 2019 to 2022 by utilising expertise and experience of Respondent No.1 in India. Accordingly, APA was executed between Petitioner and Respondent No.1 on 24 September 2018 to which Respondent No.3 is also a signatory. Under the APA, Petitioner purchased intellectual property (trademarks), domain names, goodwill, databases and other assets of Respondent No.1 in relation to the three named shows for total consideration of Rs. 15.25 crores. As per clause 5.1(f) of the APA, Respondent No.1 continued providing services for organisation of exhibition in the year 2019 for which Petitioner paid to Respondent No.1 fees of Rs.55,78,541/-.

23) Since exhibitions could not be held due to disruptions caused by Covid-19 pandemic during 2020 and 2021, parties decided to extend the closing date to enable Respondent No.1 to associate with exhibitions during 2023 and 2024. Accordingly, amended APA was executed on 1 September 2021, under which the closing date got extended upto 29 May 2024. Accordingly Respondent No.1 provided services to the Petitioner for exhibitions held during 2022, 2023 and 2024 for which Petitioner paid to

Respondent No.1 fees of Rs.62,82,458, Rs.1,43,27,939/- and Rs.1,95,16,455/- respectively. At the end of the closing date, Respondent No.1 issued letter dated 29 May 2024 giving notice of discontinuation of consultation and cooperation services.

24) The APA and the amended APA contain non-compete/non-solicit clauses as well as arbitration agreement. The present Petition essentially emanates out of claim of the Petitioner that Respondent Nos.1 to 3 have breached non-compete and non-solicit clauses under the APA and the amended APA in concert and collusion with Respondent Nos.4 to 6. Therefore, it would be necessary to refer the said non-compete and non-solicit clauses.

25) Clause 6 of APA contains following non-compete and non-solicit clause.

6. NON-COMPETE AND NON-SOLICIT

6.1. Except as previously approved by the Purchaser, the Seller, Promoter and majority shareholders of the Seller shall not, during the period commencing on the Closing Date and expiring after a period of 5 years after the Seller provides a written notice for discontinuation of the consultation and cooperation services in the manner set out in Clause 5.1 (f) (iii):

(6) directly or indirectly, either by themselves or in concert with each other or any other person (i) carry on, engage in or be directly or indirectly interested in any manner in any business, similar to or competing with the Exhibition; (ii) participate in as an investor, manager, consultant, employee or in any other capacity in any business substantially similar to or competing with the Exhibition; or (iii) supply any product, carry out or undertake or provide any service which is the same as or similar to the Exhibition, within the Territory.

(b) induce or attempt to induce any officers, employees any officers, employees, representatives or agents of the Purchaser or any of its Affiliates to leave the employment of the Purchaser or any such Affiliate for employment with the Seller or any of its Affiliates, or violate the terms of their contracts, or any employment arrangements, with the Purchaser or any such Affiliate of the Purchaser.

6.2. The Seller and the Promoter acknowledge and agree that the restrictions set out in this Clause 6 are a material inducement and condition to the Purchaser agreeing to purchase the Purchased Assets from the Seller and such restrictions are reasonable as to time and scope

of the activity and do not impose a greater restraint than is necessary to protect the goodwill associated with the Exhibition and the legitimate business interests of the Purchaser.

26) After parties extended the closing date by amended APA dated 1 September 2021, Clause No.6.1 in the APA was replaced as under:-

3.12 Clause 6.1 of the APA shall stand replaced with the following revised clause 6.1:

6.1 The Seller, Promoter and majority shareholders of the Seller shall not and shall ensure that their employees and consultants (which for the avoidance of doubt shall include Mr. Rakesh Desai who is currently the Seller's representative for the purpose of the Exhibitions) shall not directly or indirectly, during the period commencing on the Closing Date and expiring after a period of 5 years after the Seller provides a written notice for discontinuation of the consultation and cooperation services in the manner set out in Clause 5.1 (f) (iii):

(a) directly or indirectly, either by themselves or in concert with each other or any other person (i) carry on, engage in or be directly or indirectly interested in any-manner in any business similar to or competing with the Exhibition; (ii) participate in as an investor, manager, consultant, employee or in any other capacity in any business substantially similar to or competing with the Exhibition; or (iii) supply any product, carry out or undertake or provide any service which is the similar to the Exhibition, same as or within the Territory.

(b) induce or attempt to induce any officers, employees Or any officers, employees, representatives or agents of the Purchaser or any of its Affiliates to leave the employment of the Purchaser or any such Affiliate for employment with the Seller or any of its Affiliates, or violate the terms of their contracts, or any employment arrangements, with the Purchaser or any such Affiliate of the Purchaser."

27) Thus, Respondent Nos.1 and 3 agreed under Clause 6 of the APA that for a period of five years from closing date, they shall not directly or indirectly, either by themselves or in concert with any other person, carry on, engage in or be directly or indirectly interested in any business similar to or competing with the exhibitions or even participate as an investor, manager, consultant, employee or in any capacity in such business. Under Clause 6.2, it was agreed that the restrictions set out in Clause 6 were material inducement and condition to the Petitioner agreeing to purchase the assets from Respondent Nos.1 and 3.

28) At the time of execution of amended APA dated 1 September 2021, parties decided to slightly amend Clause 6.1 of the original APA and Respondent No.2 was also sought to be included in the restrictive covenant. However, Respondent No.2 is not signatory to amended APA. There is dispute between the parties as to whether Respondent No.2 is bound by the non-compete clause in the amended APA.

29) As observed above, the contractual arrangement of providing consultation and cooperation services ended between Petitioner and Respondent No.1 on 29 May 2024 and accordingly the five-year restriction of non-compete clause operates till 29 May 2029. According to the Petitioner, the impugned exhibitions scheduled to be held during 22 to 24 January 2026 are being conducted by Respondent Nos.1 to 3 in concert and connivance with Respondent Nos.4 to 6 and are therefore violative of the non-compete clause as per the APA and amended APA.

30) Therefore, the short factual controversy to be resolved at this *prima-facie* stage is whether Respondent Nos.1 and 3 are associated, in any manner, in the conduct of the impugned exhibitions. Also involved is the controversy whether Respondent No.2 is bound by covenants of amended APA and whether he is also associated with the conduct of the impugned exhibitions.

31) Before going into merits of allegations of concert and connivance between Respondent Nos.1 to 3 and Respondent Nos.4 to 6 it must be noted that the Petitioner has filed the present Petition after substantial delay. Though the exhibitions are scheduled to be held during 22 to 24 January 2026, Petitioner itself has admitted acquisition of knowledge about the exhibitions in January 2025. This is clear from following averments in para 3.20 of the Petition:-

3.20 Pertinently, by January 2025, the Petitioner had already begun hearing from multiple stakeholders across the industry about the Respondents' shows and the subsequent resignation of Respondent No.2, cloaked under suspicious circumstances, merely reinforced the Petitioner's conviction that Respondent No.2 played and continues to play a direct and substantial role in the conception, planning, organisation, and management of those shows.

32) Thus, Petitioner has specifically admitted in the Petition that it had acquired knowledge about Respondent No.2 playing direct and substantial role in organising the impugned exhibitions. These are judicial admissions in the pleadings constituting waiver of proof as held by the Apex Court in *Nagindas Ramdas Versus. Dalpatram Iccharam Brijram and Others*²³. In addition to the judicial admissions, acquisition of knowledge about holding of impugned exhibitions by Respondent No.6 by the Petitioner in January 2025 is otherwise apparent from email correspondence between Petitioner and Respondent No.6. It appears that Respondent No.6 had objected to use of its logo by the Petitioner by email dated 23 January 2025 in which Respondent No.6 has stated that it was not willing to participate in the exhibitions of the Petitioner and that it was focusing on its own events. After receiving Petitioner's response on 24 January 2025, Respondent No.6 wrote back to the Petitioner on 28 January 2025 clearly stating as under:-

'In our mutual discussions on phone and whenever we had meetings, we explicitly mentioned that SSVA is celebrating its 25th Anniversary (Silver Jubilee) with various events, including our own trade exhibition.'

33) Furthermore, Respondent No.6 started advertising the impugned exhibitions on social media. On 22 June 2025, Respondent No.6 made publications relating to launch of 'Pen, Paper and Stationer' PPS-expo 2026' in Mumbai during 22 to 24 January 2026 at Jio World Convention Centre. The rates for booking 850+ booths spread over area of 1,75,000 sq.ft. were also published. Petitioner thus had full idea about

²³(1974) 1 SCC 242

Respondent No.6 organising the impugned exhibitions to celebrate its silver jubilee. However, the present Petition is filed on 8 December 2025 by showing false urgency of receipt of report of external investigator-IIRIS, which is dated 4 December 2025. Interestingly, IIRIS has conducted investigations not at the behest of the Petitioner but at the behest of its Advocate. Thus, it *prima-facie* appears that the investigation report is sought for the sole purpose of creating false urgency, when none existed in reality. I am therefore, not inclined to grant any equitable relief in favour of the Petitioner, who has failed to move before this court with necessary alacrity. This is the first reason why no relief deserves to be granted in favour of the Petitioner in the present Petition.

34) For demonstrating association of Respondent Nos.1 to 3 with the impugned exhibitions and for proving the allegation of concert and connivance of Respondent Nos.1 to 3 with Respondent Nos.4 to 6, Petitioner has relied upon report of private investigator-IIRIS. It must be observed at the very outset that the report of IIRIS itself contains several caveats as under:

IIRIS does not name the sources interacted with, to maintain confidentiality of the sources.

Please be advised that this report is a summary of a more extensive investigation. It has been abridged to adhere to the legal standards of brevity and relevance for court submission. While it accurately presents the key findings, the full investigative report provides a more comprehensive picture and should be considered the primary source document for a complete understanding of the investigation.

However, we have relied on the information provided by third-party sources and cannot independently guarantee its absolute accuracy or completeness. The findings of this report are based on the information available at the time of the investigation, and subsequent events or the discovery of new information may alter the conclusions.

35) Based on report of IIRIS, Petitioner has sought to associate Respondent Nos. 1 to 3 with the impugned exhibitions. The major factors pressed before me to demonstrate such association are:

(i) Respondent No.1 had same address as that of CGAI which had organised exhibition on 19 and 20 September 2025, whereat Respondent No.2 was spotted promoting the impugned exhibitions,

(ii) Respondent No.1 has utilised Artel, which is a company of chartered accountants of Respondent Nos.1 and 3, to channel funds for the impugned exhibitions.

(iii) Respondent No.2 continues close association with Respondent Nos.1 and 3 and has a cabin in the office of Respondent No.1 and is therefore an alter ego of Respondent Nos.1 and 3. Respondent No.2 was spotted by the investigators in the office of Respondent No.1.

(iv) Respondent No.2 is associated with the impugned exhibitions as he has openly advertised the same and solicited clients as is clear from conversation between him and Ms. Greta Cardoza.

(v) Respondent No.3 was the director of Respondent No.4 and is closely associated with partners of Respondent No.5 who is the event manager for the impugned exhibitions.

(vi) The daughter of chartered accountant of Respondent Nos.1 and 3 has paid Rs.60 lakhs for booking the venue for the impugned exhibitions.

36) I now proceed to examine whether the above suggestions made by the Petitioner are sufficient for drawl of a conclusion that Respondent Nos.1 and 3 are actually organizing or are even associated with the impugned exhibitions. Merely because cabin of Respondent No.2 is still maintained in the office of Respondent No.1 after his resignation, the same would not *ipso-facto* mean that Respondent No.2 has taken part in any activity of the impugned exhibitions on behalf of Respondent No.1. There

is undoubtedly long association between Respondent Nos.1 and 3 and Respondent No.2. This is evident from the fact that Respondent No.3 had requested Petitioner to employ Respondent No.2 after sale of the assets was complete. It is Petitioner who refused to employ Respondent No.2 and showed willingness to incur losses by not utilising the experience and expertise of Respondent No.2. It would be apposite to reproduce email dated 28 March 2024 which reads thus:

Dear Minesh

I hope this mail finds you well and you and your family had a very Happy Holi.

Following on from our meeting on Tuesday 20th February at our offices, I thought long and hard about all the points that you had brought up and your insights into the sector and all the recent developments.

From this a few things really stuck in my mind and I then further studied some of the processes internally before coming to a conclusion.

Firstly as requested please find attached the forecast budget for the next 3 editions for your review, so you can see from a financial perspective what we are expecting to happen and a major part of the forecasting assumption, is taken from exactly what you had told me that would happen, which I will summarise below;

The key decision is that I will now run the show without the involvement of Rakesh, and based on what you had said to me, that immediately Rakesh is not there I will lose 1,500 sqm and this has been my starting point in my forecasting from 2025 onwards.

I have will therefore do the following to build up the show going forward.

1 I will have more sales people placed on the show.

2 I will incorporate more marketing activities, which are done for my other shows very successfully and which have been rejected for this show in the past.

3 I will coordinate more face to face meetings between our customers and my sales staff throughout the year and will arrange some networking events for the same.

The basis of my decision, was very much on the fact that I cannot have any of my business reliant on one person alone, I run over 15 exhibitions and not one of these is reliant on any one individual, this is not a good business practice and it is something that I would not like to have within my company, and therefore, I am prepared to take the hit (1,500sqm), as you mentioned to me and build from that point on the terms of MFI.

You also mentioned on how clear and driven you are on your business, and you are 100% confident in what you do and the steps that you take, I am of the same character, and having been in the exhibition business for over 30 years and having run companies and exhibitions across a number of countries globally, I am

equally confident that I can make CGS & PWI a great success and implement the same systems and processes as we have in all our other shows in MFI, so that we do not have this unacceptable situation whereby companies are allowed to participate in the expo without having paid for the booth and have collections outstanding not for months but years.

I understand that it will be a challenge in the beginning as undoubtedly Rakesh as a great reputation in the industry and has forged long standing relationships with the exhibitor base, but I am very confident that we can do the same, and ultimately these companies are all here to do business and if we can deliver the right platform, with the relevant visitors for them, then I am sure we can win these exhibitors back and forge our own relationships with them as we have done with all our other exhibitions in India.

Now you have my clear answer to your questions from our meeting, which I wasn't able to give you at that time as we were all fully occupied with Bharat Tex, which thankfully went off extremely well and was a great success.

I look forward to seeing you on my next trip to Mumbai and wish you a good Easter weekend.

Kind regards
Raj

37) If Respondent Nos.1 or 3 had any nefarious designs of doing business clandestinely through Respondent No.2, they would not have requested Petitioner to employ Respondent No.2. Petitioner is accused of suppressing email dated 28 March 2024 and, in my view, non-disclosure thereof would also be one of the factors disentitling the Petitioner for equitable relief under Section 9 of the Arbitration Act. It is not for litigant to decide how much is to be disclosed and a duty is cast on the litigant to make full and complete disclosure without deciding relevancy of disclosure. Reliance in this regard by Mr. Kamat on judgment of the Apex Court in Bhaskar Laxman Jadhav and of this Court in Shantappa alias Shantesh S. Kalasgond (supra) is apposite. The email dated 28 March 2024 is vital to the issue of deciding Petitioner's entitlement to equitable relief of interim measures as the said email negatives any possibility of illintention on the part of the Respondent No.1/3 to do business in an indirect manner through its employee/ex-employee. Respondent No.1/3 were willing to offer services of Respondent No.2 possessing vast experience of organising exhibitions and trade fairs to the Petitioner with bonafide intention. Such

arrangement would have benefited both, Petitioner as well as Respondent No.2. Request for employment of Respondent No.2 only exhibits bonafide intention on the part of Respondent No.3 in ensuring that Respondent No.2 is not left in lurch on account of sale of business to the Petitioner. Petitioner took the risk of not employing Respondent No.2 and showed willingness to even bear losses. By doing so, Petitioner was well aware that Respondent No.2 was likely to utilise his skill, contacts, expertise and experience in organising exhibitions and trade shows for other entities. Petitioner is now seeking to turn around and has filed the present Petition out of fear of losing profits by accusing Respondent No. 2 of holding the impugned exhibitions prior to Petitioner's own exhibition. It is another matter that Petitioner has not been able to prove that Respondent No. 2 is associated with organizing the impugned exhibitions. However even if it is momentarily accepted that Respondent No. 2 has taken any part in organizing the impugned exhibitions, it is not possible to draw a surmise that Respondent Nos. 1 or 3 are also associated with such organization merely because the cabin of Respondent No. 2 is maintained at the office of Respondent No. 1 out of long standing relations. In my view therefore, mere continuation of some association between Respondent Nos. 1/3 and Respondent No. 2 cannot be a ground to presume that the impugned exhibitions are being held actually by Respondent Nos. 1 or 3.

38) Another factor relied upon by the Petitioner to demonstrate association of Respondent Nos.1 to 3 with the impugned exhibitions is presence of Respondent No. 2 in the CGAI exhibition held on 19 and 20 September 2025. My attention is invited to the photographs which show presence of Respondent No.2 at the stalls/booth at which there was advertisement of the impugned exhibition. This is sought to be explained by Respondent No.2 contending that mere presence of Respondent No.2 at the concerned stall/booth is not sufficient to infer that Respondent No.2

was promoting the impugned exhibitions. *Prima-facie*, the explanation appears to be valid as Respondent No.2 is in the industry for several decades and mere visit to CGAI exhibition by him or his spotting around the concerned booth/stall cannot be a ground for inferring that Respondent No.2 is associated with the impugned exhibitions. Petitioner has also relied upon Whatsapp communication at page-210 of the Petition at which one of the clients of the Petitioner has stated that '*Rakesh bhai is also coming up with some shows*'. However, such conversation between Petitioner and its clients is again not sufficient for inferring that the impugned exhibitions are being organised by Respondent No.2. Petitioners have also relied upon Whatsapp chat of Respondent No.2 in which he has apparently forwarded information relating to impugned exhibitions as projected in CGAI exhibition of 19 and 20 September 2025. Again, mere forwarding of such information by Respondent No.2 is not sufficient to infer that he is organising the impugned show. Lastly, reliance is placed on transcript of conversation between Respondent No.2 and Ms. Greta Cardoza, Manager of Zest Services, which is claimed to be business associate of the Petitioner. The said transcript is tendered across the bar during the course of hearing of the petition and the reason why the same was not filed alongwith the Petition or with rejoinder is not explained in any manner. Petition contains specific reference to conversation in para-3.26 thereof, but Petitioner chose not to produce the said transcript either alongwith the Petition or with rejoinder, especially when Respondent No.2 denied having such conversation. Having not afforded any opportunity to Respondent No.2 to deal with the alleged transcript, it is too dangerous to rely upon the same for inferring that Respondent No.2 is the organiser of the impugned exhibitions.

39) The contention that daughter of chartered accountant of Respondent Nos.1 and 3 has paid amount of Rs.60 lakhs for booking the

venue for holding impugned exhibitions is premised solely on observations in report of IIRIS. The observations in the report read thus:

‘Sources further indicated that Ms. Kashvi Prakash Chechani, daughter of Mr. Prakash Chandra Chechani has funded around INR 60 lakhs to GVE during the **past year** through multiple tranches. These funds were reportedly utilised to make venue rental payments to Reliance Industries Ltd. under the heads of Jio World Convention Centre rent or booking charges’.

(emphasis added)

Thus, the above opinion of IIRIS is based on alleged ‘indication’ through ‘sources’. Again, the alleged funding was during ‘past year’. It is too dangerous to rely upon the vague report of IIRIS for *prima-facie* concluding that daughter of chartered accountant of Respondent Nos. 1 and 3 has paid the venue rentals for holding the impugned exhibitions.

40) Even if it is momentarily assumed that Respondent No.2 has played some role in organisation of the impugned exhibitions, that alone cannot be a reason for holding that Respondent Nos. 1 or 3 are behind such organisation. Respondent No. 2 is *prima facie* not bound by the ‘non-compete’ covenant. He is not a signatory to the APA or amended APA. By entering into contract with the third party, his employer cannot restrict him from taking up competing assignment after resignation. If the contractual covenant of ‘non-compete and non-solicit’ is given effect to against Respondent No.2, he would be left unemployed and idle for 5 years. On account of closure of business of Respondent No.1, Respondent No.2 was required to resign and is not expected to remain idle to ensure that Petitioner makes maximum out of purchase of business of Respondent No. 1. It cannot be countenanced that he must remain unemployed for a period of 5 years because his employer accepted non-compete clause and sought to cover him by such clause. The employer of Respondent No.2 has received valuable consideration for sale of business and assets and in consideration thereof, has agreed for non-compete clause. However, Respondent No.2 has

not received any consideration for agreeing to non-compete clause. He is not even signatory to the amended APA. His employer therefore cannot covenant with the purchaser of the business that his employee will not commence competing business after end of his service contract. Reliance in this regard by Mr. Shah on judgment of this Court in *VFS Global Services Pvt. Ltd.* (supra) is apposite. In case before this Court, suit was filed for seeking enforcement of negative covenant contained in contract of employment which prohibited the employee from joining service with any other employer having conflict of interest with business of the plaintiff. By relying on the judgment of the Apex court in *Niranjan Shankar Golikari Versus. Century Spinning and Mfg. Co. Ltd.*²⁴ This Court drew distinction between restrictive condition in contract of employment which is operative 'during' the period of employment and the one which is to operate 'after' the termination of employment. It is held that the condition which operates 'after' the term of employment is in restraint of trade under Section 27 of the Indian Contract Act, 1872. This Court held in paras 8 to 12 of the judgment as under:

8. Section 27 of the Indian Contract Act, 1872 provides that every agreement by which anyone is restrained from exercising a lawful profession, trade or business of any kind is to that extent void. An exception is carved out in section 27 by which a person who sells the goodwill of a business may agree with the buyer to refrain from carrying on a similar business within specified local limits so long as the buyer carries on a like business, provided that such limits appear to the Court reasonably having regard to the nature of the business. The only exception which is provided to the doctrine that an agreement in restraint of the exercise of a lawful profession, trade or business is void is where the goodwill of a business is being sold.

9. Since the Judgment of the Supreme Court in *Niranjan Shankar Golikari v. Century Spinning and Mfg. Co. Ltd.*, 1967 Mh. L.J. (SC) 606: (1967) 2 SCR 378, AIR 1967 SC 1098 para 15, a distinction has been drawn in Indian law between a restrictive condition in a contract of employment which is operative during the period of employment and one which is to operate after the termination of the employment. A restriction during the term of employment is regarded as valid and not in restraint of trade. A condition which operates after the term of employment ceases is in restraint of trade. This distinction was adverted into in the Judgment of Mr. Justice A.P. Sen in *Superintendence Co. of India v. Krishan Murgai*, (1981) 2 SCC 246: AIR 1980 SC 1717 Mr. Justice V.D. Tulzapurkar who delivered the Judgment for His Lordship and Mr. Justice N.L. Untwalia held that

²⁴ AIR 1967 SC 1098

it was not necessary for the decision of the case to decide whether such a negative covenant was in restraint of trade. Mr. Justice A.P. Sen held thus:-

There is nothing in the wording of section 27 to suggest that the principle stated therein does not apply when the restraint is for a limited period only or is confined to a particular area. Such matters of partial restriction have effect only when the facts fall within the exception to the section.

A contract, which has for its object a restraint of trade is prima facie, void, section 27 of the Contract Act is general in terms and unless a particular contract can be distinctly brought within Exception 1 there is no escape from the prohibition. We have nothing to do with the policy of such a law. All we have to do is to take the words of the Contract Act and put upon them the meaning which they appear plainly to bear."

10. In *Gujarat Bottling Company Limited v. Coca Cola Company*, (1995) 5 SCC 545: AIR 1995 SC 2372, the Supreme Court adverted to section 42 of the Specific Relief Act, 1963, under which, it has been provided that notwithstanding anything contained in clause (e) of section 41, where a contract comprises an agreement to do a certain act, coupled with a negative agreement, expressed or implied, not to do a certain act, the circumstance that the Court is unable to compel specific performance of the affirmative agreement shall not preclude it from granting an injunction to perform the negative agreement. The Supreme Court held that the Court is however, not bound to grant an injunction in every case and an injunction to enforce a negative covenant would be refused if it would indirectly compel the employee either to idleness or to serve the employer (para 45 at page 2388). In *Percept D'Mark (India) Pvt. Ltd. v. Zaheer Khan*, (2006) 4 SCC 227: AIR 2006 SC 3426 the Supreme Court upheld the Judgment of a Division Bench of this Court which had taken the view that the right of first refusal conferred by an agreement for the promotion of the services of a sportsman operated beyond the term of the agreement and was therefore an unlawful restraint of trade. The Supreme Court held thus:-

On the pleadings contained in the Arbitration petition, there can be no escape from the conclusion that what the appellant sought to enforce was a negative covenant which, according to the appellant, survived the expiry of the agreement. This, the High Court has rightly held is impermissible as such a clause which is sought to be enforced after the term of the contract is prima facie void under section 27 of the Contract Act."

11. The legal position was summarised as follows:-

"The legal position with regard to post-contractual covenants or restrictions has been consistent, unchanging and completely settled in our country. The legal position clearly crystallised in our country is that while construing the provisions of section 27 of the Contract Act, neither the test of reasonableness nor the principle of restraint being partial is applicable, unless it falls within express exception engrafted in section 27."

12. The judgment of the Supreme Court in *Zaheer Khan* arose out of a petition under section 9 of the Arbitration and Conciliation Act, 1996. Parties were therefore permitted to espouse their rights and contentions before the Arbitral Tribunal. The judgment of the Supreme Court follows a line of precedent of the Court. The same view, it may be noted has been taken in the judgment of a learned Single Judge of this Court in *Taprogge Gesellschaft MBH v. IAEC India Ltd.*, AIR 1988 Bombay 157.

41) Same principle is reiterated by Single Judge of Delhi High court in **Varun Tyagi** (supra) in which it is held in para-68 as under:

68. In view of the above, it is clear that any terms of the employment contract that imposes a restriction on right of the employee to get employed post-termination of the contract of employment shall be void being contrary to Section 27 of the ICA.

42) The present case is worse than the one involved in **VFS Global Services Pvt. Ltd.** and **Varun Tyagi** in which the restrictive covenant was in the contract of employment. Here, the restrictive covenant is outside the contract of employment of Respondent No. 2. The covenant in APA and amended APA does not restrict him from joining employment rival to his employer rival to a third party. The non-compete/non-solicit restriction does not operate between employer and employee, but seeks to operate between purchaser of the business and the employee, who has not even signed the document containing such restrictive covenant.

43) In my *prima-facie* view therefore, the non-compete and non-solicit covenant in the APA and amended APA does not bind Respondent No.2 and therefore even if it is momentarily accepted that Respondent No.2 has some association with the impugned exhibitions, Petitioner cannot rely upon the restrictive covenant in the APA/amended APA to seek injunction even against Respondent No. 2 in respect of the impugned exhibitions.

44) It is also seen that the organiser of the impugned exhibitions is Respondent No.6. As observed above, Respondent No.6 has made it abundantly clear to the Petitioner in January 2025 itself that it would conduct its own exhibition on account of its silver jubilee. Petitioner apparently had no objection to organisation of event by Respondent No.6. Since Respondent No.6 is not signatory to the contractual arrangement

between Petitioner and Respondent No.1 and 3, it is free to organise its own exhibition and even Petitioner concedes to this position. However, the Petition is filed claiming that Respondent No.6 does not have experience and expertise of organising exhibitions of such large magnitude and that therefore Respondent Nos. 1 to 3 are actually organizing the impugned exhibitions. However, as observed above, Petitioner has failed to *prima-facie* prove such association. What Petitioner has raised are mere surmises on the basis of report of IIRS, which itself does not claim accuracy in respect of its findings. Therefore, the negative covenant in the APA and amended APA cannot be enforced on the basis of mere speculative cause of action sought to be raised by the Petitioner.

45) What is being done in the present case by the Petitioner is to stall the exhibition of Respondent No.6 by using the pretext of breach of non-compete covenant by Respondent Nos.1 to 3. Petitioner never questioned ability of Respondent No.6 to conduct exhibition of such large magnitude since January, 2025. Having realised that success of exhibition of Respondent No.6 might affect its own exhibition scheduled to be held in February 2026, Petitioner has mixed up the issue of breach of non-compete covenant by Respondent No.1 to 3 to somehow stall the exhibition of Respondent No.6.

46) Petitioner has contended that in a case involving covert act, fraudulent motive or design, it is not possible to produce direct proof and that such acts need to be inferred on the basis of circumstantial evidence. In such cases, courts need to give due weightage to circumstances indicated by the Petitioner and according to the Petitioner, sufficient circumstances are indicated for establishing concert and connivance of Respondent Nos.1 to 3 with Respondent Nos. 4 to 6. Reliance is placed on judgments of the Apex Court in Yeshwant Deorao Deshmukh, Maharashtra State Board of Secondary

and Higher Secondary Education, Trishala Jain, Commissioner of Income Tax West Bengal Versus. East Coast Commercial Company Ltd., and Securities and Exchange Board of India Versus. Kishore R. Ajmera (supra). While there can be no debate about the principle that in a case involving collusion, fraudulent motive or design, the colluding parties do take care of not leaving any direct evidence and it often becomes difficult to produce direct substantive evidence. In such cases, the Court can gather the act of collusion from circumstances. However, in the present case, Petitioner is unable to produce the requisite circumstances for drawl of inference that Respondent Nos.1 to 3 have connived with Respondent Nos.4 to 6 in organising and holding the impugned exhibitions. Respondent No.2 is not bound by the non-compete covenants in contract executed between Petitioner and Respondent Nos.1 and 3. In that view of the matter, this Court is unable to *prima-facie* hold that Respondent Nos.1/3 have breached the covenants of the APA/amended APA or that they have taken any direct/indirect part in organisation of the impugned exhibitions.

47) It must also be borne in mind that interim measures under Section 9 of the Arbitration Act can be made *inter alia* to preserve the subject matter of arbitration. As of now there is sufficient material to gather that the impugned exhibitions are organised by Respondent No.6. Whether they can be made subject matter of the proposed arbitration between Petitioner and Respondent Nos.1 and 3 is something which the arbitral tribunal would decide. No doubt, the arms of Section 9 Court can be extended even to third parties for preserving subject matter of arbitration and in this regard, Mr. Seervai has placed reliance upon judgments in M/s. Value Advisory Services (supra). However, there is a marked difference between property forming subject matter of arbitration in the hands of third parties and properties of third parties. In Gatx India Private Ltd. Versus.

*Arshiya Rail Infrastructure Ltd and Ors.*²⁵ it is held that exercise of power under Section 9 for granting interim relief against a party to arbitration agreement which incidentally affects a third party is ordinarily acceptable. However, when order made under Section 9 is wholly directed against a third party, the power must be exercised sparingly. The case does not involve a situation where the exhibitions are organized by Respondent Nos. 1 or 3 and the interim measures would incidentally affect Respondent No. No. 6. The impugned exhibitions are that of Respondent No. 6, who is not a party to the arbitration agreement. Thus, interim measures are sought directly against a third party. Though there may not be complete prohibition in law to make an order directly against a third party under Section 9 of the Arbitration Act, such power needs to be exercised sparingly. No case is made out by the Petitioner for exercise of such power against Respondent No. 6.

48) The principles of making interim measures against third parties are discussed by Division Bench of this Court in *Hemant D. Shah* (supra), wherein it is held in para-8 as under :-

8. That the respondent No.8 is not party, to the arbitration proceedings, is not in dispute. It could not be because it is not party to the arbitration agreement. **The question is, in a dispute between the two parties to the arbitration agreement if the property belonging to the third party is brought in dispute, can such property belonging to third party be said to be the subject matter of dispute between the parties to the agreement. We do not think so.** The forum of Arbitral Tribunal is chosen by the parties to the agreement for resolution of disputes amongst them. Obviously, in such proceeding the rights of third party in the property in which the parties to the arbitration agreement has no right, title or interest, cannot be affected. It needs no elaboration that the arbitration proceeding is not to adjudicate an action in rem i.e., the determination of the status of a particular thing that binds all persons. Rather it is adjudication inter parties. By no stretch of imagination, in arbitration proceedings, pursuant to the memorandum of understanding between the appellants and the respondent Nos.1 to 6, the status of the property owned by respondent No.8 viz. Rs.5,00,00,000/- (Rupees five crores) lying in surplus on sale of Worli property can be determined. In other words, in respect of the property in which neither of the parties to the agreement has any right, interest or title cannot be the subject matter of dispute in the pending arbitration proceedings between the parties. If what cannot be done finally on the conclusion of the arbitration proceedings, surely it cannot be done in the

²⁵ 2014 SCC Online Del 4181

proceedings under section 9 of the Arbitration Act which is in aid of the final award that may be passed by the Arbitral Tribunal. In this view of the matter, the amount of Rs.5,00,00,000/- (Rupees five crores) lying in the Debts Recovery Tribunal as surplus of sale proceeds of the Worli property belonging to respondent No.8 is not and cannot be a subject matter of dispute in the arbitration proceeding. The prayer for interim relief made by the appellants under section 9 with regard to the said property, in our view, was wholly misconceived and cannot be said to have been wrongly rejected by the learned Single Judge.

(emphasis added)

49) The impugned exhibitions are organised by Respondent No.6, who is not a signatory to the arbitration agreement. It is not that any restraint order is sought against Respondent No.6 because it is dealing with any subject matter of arbitration between Petitioner and Respondent No.1/3. This is yet another reason why the power of Section 9 Court to make interim measures against third parties cannot be overstretched in the present case so as to rope in Respondent No.6 and its impugned exhibitions for making any interim measures in favour of the Petitioner.

50) In the present case, I am unable to trace any clandestine or fraudulent activities by Respondent Nos.1 and 3 in organising impugned exhibitions for Respondent No.6. As observed above, Respondent No.6 has been open in respect of its intentions of organising its own trade show. Petitioner made attempts of associating itself with the show of Respondent No.6 which was objected to by Respondent No.6 way back in January 2025. Respondent No.6 has placed on record the agreement for event management executed with Respondent No.5. In that view of the matter, it is not necessary to undertake the exercise of lifting the corporate veil or apply group of companies doctrine to find out whether any person in the management of Respondent Nos. 4 to 6 has any association with Respondent No.1/3. In fact in para-117 of Cox and Kings Ltd. (supra), the Apex Court has clarified that mere presence of commercial relationship between signatory and non-signatory parties is not sufficient to infer 'legal relationship' between and among the parties and that the group of

companies doctrine cannot be applied to abrogate party consent and autonomy.

51) There is yet another reason why I am not inclined to grant any relief in favour of the Petitioner. Petitioner can file claim for damages before the Arbitrator against Respondent Nos.1 and 3 who are signatories to the arbitration agreement and non-compete clause. It can also seek impleadment of rest of the Respondents to the arbitral proceedings which issue would be decided by the Tribunal on its own merits. In fact, in prayer clause (b), Petitioner has sought damages in the sum of Rs.2.50 crore. Therefore, if no interim measures are granted in the present Petition, the Petitioner would not be remediless and can always seek damages against the Respondents. It therefore cannot be contended that damages are not adequate remedy for the Petitioner in the facts of the present case.

52) Considering the overall conspectus of the case, I am of the view that Petitioner has failed to make out a case for grant of interim measures in its favour. The Petition is also not filed with the requisite alacrity as Petitioner had knowledge about impugned exhibitions since January 2025. It is also difficult to *prima-facie* hold at this stage that impugned exhibitions are properties relating to subject matter of arbitration in the hands of third party-Respondent No.6. Rejecting interim measures would not leave Petitioner remediless as it can always claim damages against Respondents in the arbitration. I am therefore not inclined to grant any interim measures in favour of the Petitioner in the present Petition.

53) The Petition is accordingly **dismissed**. It is however clarified that the observations in the judgment are *prima-facie* and are made only for the purpose of determining Petitioner's entitlement for interim measures. The observations shall not influence the arbitrator in final

adjudication of claims of parties. Considering the facts and circumstances of the case, there shall be no order as to costs.

[SANDEEP V. MARNE, J.]