

Regenta Hotels Private Limited
v.
M/s Hotel Grand Centre Point and Others

(Civil Appeal No. 90 of 2026)

07 January 2026

[Dipankar Datta and Augustine George Masih,* JJ.]

Issue for Consideration

Whether the High Court was correct in holding that the Appellant has initiated arbitral proceedings after the expiry of 90 days period as prescribed u/s.9(2) of the Arbitration and Conciliation Act, 1996, thereby resulting in automatic vacation of *ad-interim* injunction in terms of r.9(4) of the Arbitration (Proceedings Before the Courts) Rules, 2001.

Headnotes[†]

Arbitration and Conciliation Act, 1996 – ss.21, 9(2) – Arbitration (Proceedings Before the Courts) Rules, 2001 – r.9 – “Commencement of arbitral proceedings” under the Act – Parties entered into a Franchise Agreement in 2019 – Disputes arose, Appellant filed application u/s.9 and certain IAs before the Trial Court seeking injunctive reliefs against the Respondent No.2 – Trial Court vide Order dtd.17.02.2024 granted *ad-interim* injunction against Respondent No.2 – On 11.04.2024, appellant issued notice to the Respondents invoking arbitration – Respondent No.2 sent a reply on 23.04.2024 refusing to concur with the nomination of the Arbitrator – Appellant filed petition u/s.11(6) before the High Court on 28.06.2024 seeking appointment of sole Arbitrator and for referring the parties to arbitration – IAs filed by the Appellant dismissed by Trial Court – Appeal filed by the Appellant, dismissed by High Court – Whether the High Court was correct in holding that the Appellant has initiated arbitral proceedings after the expiry of 90 days period as prescribed u/s.9(2), resulting in automatic vacation of *ad-interim* injunction in terms of r.9(4), 2001 Rules:

Held: No – Arbitral proceedings, as commenced by the Appellant, are well within the statutory time frame provided u/s.9(2) and the

* Author

**Regenta Hotels Private Limited v.
M/s Hotel Grand Centre Point and Others**

rigor of r.9(4), 2001 Rules is not applicable to the Appellant – The date on which the respondent receives a notice or request invoking arbitration is the moment at which the arbitral proceedings commence u/s.21 – A valid invocation requires the notice to articulate the dispute sought to be referred but once such notice is received, commencement is complete and effective for all legal purposes including limitation, maintainability of the s.11 Petition and the legal efficacy of any pre-arbitral measures – Trial Court passed the Order dtd.17.02.2024 granting *ad-interim* injunction to the Appellant – Period of ninety days as provided u/s.9(2) would end on 17.05.2024 – Appellant served a notice invoking arbitration on 11.04.2024 – Reply of Respondent No.2 dtd.23.04.2024 refusing to join in the appointment of an arbitrator entails that notice had indeed been received and understood as an invocation of the arbitral process by the Respondent No.2 – Even if 23.04.2024, the date on which the reply sent by the Respondent No.2, is taken to calculate the period of ninety days, as stipulated u/s.9(2) and the consequences thereof provided u/r.9(4), 2001 Rules, the arbitral proceedings have commenced well within the time and way before expiry of such periods – High Court treated the date of filing of the s.11 petition i.e. 28.06.2024 as the date of commencement of the arbitral proceedings resulting into the finding that *ad-interim* stay stood vacated and proceedings commenced after the expiry of ninety days period provided u/s.9(2) – This finding is not sustainable as it is contrary to the objective and purpose of the Act – Impugned Judgment of the High Court unsustainable, set aside – Order of the Trial Court dtd.01.10.2024 vacating the *ad-interim* injunction also set aside, restoring the earlier Order dtd.17.02.2024 [Paras 22, 28, 31]

Arbitration and Conciliation Act, 1996 – s.21:

Held: The commencement of arbitral proceedings is a statutory event defined exclusively u/s.21, wherein the respondent's receipt of a request to refer the dispute to arbitration sets the arbitral proceedings in motion and no judicial application *i.e.* whether u/s.9 or s.11 petition, constitutes commencement – Therefore, the statutory consequences tied to commencement, including the mandate u/s.9(2), must be assessed solely with reference to the date of receipt of request invoking arbitration u/s.21. [Para 23]

Arbitration and Conciliation Act, 1996 – s.21 – Purpose of, explained. [Para 29]

Supreme Court Reports

Arbitration and Conciliation Act, 1996 – s.21 – Conscious delinking of the commencement of arbitral proceedings from any judicial proceedings based on the UNCITRAL framework:

Held: The very frame of s.21 provides that the Legislature has consciously delinked the commencement of arbitral proceedings from any judicial proceedings – This is a deliberate legislative choice modelled on the UNCITRAL framework, meant to ensure that the commencement of arbitral proceedings is clear and independent of procedural contingencies – The objective of this statutory scheme would be defeated if a court is permitted to substitute the date of commencement u/s.21 with the date of filing a s.11 petition – Resort to the proceedings u/s.11 would be necessitated only in case there is refusal or no response to the notice u/s.21 – High Court proceeded on the premise that since the petition u/s.11 was filed on 28.06.2024, beyond three months from the date of ad-interim Order dtd.17.02.2024, the arbitral proceedings had not commenced within time – This view rests on a misconception regarding the statutory scheme – Article 21 of the Model Law of UNCITRAL. [Para 28]

Arbitration and Conciliation Act, 1996 – ss.9(2), 21 – Rationale underlying s.9(2), discussed – If the commencement is to be construed from the date of filing of the petition u/s.11, the statutory scheme insisting on expedition in commencing arbitration after the grant of interim protection u/s.9 would be rendered incoherent – The applicant could serve notice u/s.21 but still be held non-compliant until a s.11 petition is filed, an interpretation which would be directly in contrast with the object and purpose of the Act – Permitting such an interpretation would mean that the parties would paradoxically be required to file the s.11 petition to prevent the lapse of interim measures granted u/s.9 even when the respondent is cooperating, the contractual appointment procedure is underway, or even when the s.21 notice has only recently been served – This is antithetical to the flexibility and autonomy provided in the Act. [Para 30]

Arbitration and Conciliation Act, 1996 – ss.21, 9(2) – In absence of any other provision providing for the date of commencement of the arbitral proceedings, s.21 is to apply to all the provisions of the Act unless specifically provided otherwise – Plea of the Respondent No.2 that the commencement u/s.21 is only for the purpose of calculating limitation u/s.43(2):

**Regenta Hotels Private Limited v.
M/s Hotel Grand Centre Point and Others**

Held: Not accepted – s.21 explicitly provides that arbitral proceedings commence on the date on which a request for dispute to be referred to arbitration is received by the respondent – In absence of any other provision providing for the date of commencement of the arbitral proceedings, s.21 is to be construed to apply to all the provisions of the Act unless specifically provided as not applicable – The only exception that is carved out in s.21 pertains to the arbitral agreement itself, providing that unless otherwise agreed by the parties, the date of commencement of arbitral proceedings must be from the date when notice or request invoking arbitration is received by the respondent – Therefore, as per the mandate of s.9(2), the arbitration proceedings shall commence within a period of ninety days from the date of such interim order or within such further time as the court may determine, and such commencement will be the date on which notice invoking arbitration is received by the respondent in consonance of s.21. [Para 23]

Case Law Cited

Sundaram Finance Ltd. v. NEPC India Ltd. [1999] 1 SCR 89 : (1999) 2 SCC 479; *Arif Azim Company Limited v. Aptech Limited* [2024] 3 SCR 73 : (2024) 5 SCC 313; *Milkfood Ltd. v. GMC Ice Cream (P) Ltd.* [2004] 3 SCR 854 : (2004) 7 SCC 288; *Geo Miller and Company Private Limited v. Chairman, Rajasthan Vidyut Utpadan Nigam Limited* [2019] 11 SCR 1108 : (2020) 14 SCC 643 – relied on.

State of Goa v. Praveen Enterprises [2011] 10 SCR 1026 : (2012) 12 SCC 581 – referred to.

List of Acts

Arbitration and Conciliation Act, 1996; Code of Civil Procedure, 1908; Arbitration (Proceedings Before the Courts) Rules, 2001.

List of Keywords

Section 9 (2), Arbitration and Conciliation Act, 1996; Section 21, Arbitration and Conciliation Act, 1996; Commencement of arbitral proceedings” ; Rule 9(4), Arbitration (Proceedings Before the Courts) Rules, 2001; Date on which the respondent receives a notice or request invoking arbitration is the moment at which the arbitral proceedings commence; Arbitral proceedings initiated after the expiry of 90 days period prescribed under Section 9 (2),

Supreme Court Reports

Arbitration and Conciliation Act, 1996; Franchise Agreement; Arbitral proceedings as commenced is well within the statutory time frame; Notice under Section 21, Arbitration and Conciliation Act, 1996; UNCITRAL Model Law's formulation; Model Law of UNCITRAL; Interim measures.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 90 of 2026

With

Contempt Petition (Civil) No. 189 of 2025

From the Judgment and Order dated 14.11.2024 of the High Court of Karnataka at Bengaluru in MFA No. 7168 of 2024

Appearances for Parties

Advs. for the Appellant(s):

Pranjal Kishore.

Advs. for the Respondent(s):

M/S. Ahmadi Law Offices, Vivek Jain, Ms. Suchitra Kumbhat, Sadiq Noor, Ms. Benila B M, Rohit H Nair, Ms. Baani Khanna, Robin Singh, Kapil Balwani, Shrikant Thokchom, Atul Shankar Vinod.

Judgment / Order of the Supreme Court

Judgment

Augustine George Masih, J.

Leave granted.

2. The instant Civil Appeal assails the Judgment dated 14.11.2024 ("Impugned Judgment") passed by the High Court of Karnataka at Bengaluru ("High Court"), whereby it dismissed the Miscellaneous First Appeal No. 7168 of 2024 (AA) filed by the Appellant herein against the Order dated 01.10.2024 of the IXth Additional City Civil and Sessions Judge, Bengaluru ("Trial Court") in I.A. Nos. 5 to 7 in AA No. 4 of 2024 which has been filed under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 ("CPC 1908") and Section 9 of the Arbitration and Conciliation Act, 1996 ("Act") read with Rule 9 of the Arbitration (Proceedings Before

**Regenta Hotels Private Limited v.
M/s Hotel Grand Centre Point and Others**

the Courts) Rules, 2001 ("2001 Rules"). The Trial Court vide Order dated 01.10.2024 dismissed the application seeking temporary injunction restraining Respondent No.2.

3. The Appellant herein is Regenta Hotels Private Limited, a company registered under the Companies Act, 1956, engaged in carrying business, *inter alia*, of operating hotels and providing hospitality services in India and abroad. The Respondent No. 1 is M/s Hotel Grand Centre Point, a partnership firm registered under the Partnership Act, 1932. Respondents No.2 to 5 are brothers and partners of Respondent No.1 vide partnership agreement entered on 01.04.2012, with each brother having 25% share in the partnership. Respondent No.1 is owner of a hotel premises located near Hatrick Restaurant, Raj Bagh, Srinagar, Jammu and Kashmir ("Hotel").
4. The abovementioned parties i.e., the Appellant and Respondent No.1 entered into a Franchise Agreement dated 23.03.2019. The terms of the agreement were such that the Appellant would aid and facilitate the business of Respondent No.1 by contributing through its brand reputation, technical know-how, training and expertise in running premium quality hotel businesses. In furtherance thereto, the management and operations of Respondent No.1 were being carried out as per the said agreement.
5. Interregnum, the Respondents No. 2 to 5 were involved in a family dispute over rights on properties resulting into a settlement deed dated 20.04.2022 providing that Respondent No. 5 will be responsible for operations of the Hotel for a period of two years and after the expiry of said period, the Hotel operation shall be conducted by such party who shall be nominated by the parties by voting. Profits of the Hotel were decided to be shared by Respondent No. 2 in the ratio of 25% and Respondent No. 5 in the ratio of 33.50% as also to include every month consideration for his responsibility to operate the Hotel. The remaining share was to be divided among Respondent No. 3 and 4 in the ratio of 21.50% and 20% respectively.
6. As transpires from the material on record, it is alleged that Respondent No.2 started to interfere in the functioning of the Hotel by shouting at staff and threatening to cancel bookings and taking away the records if not paid exorbitant sums separately over and above the agreed amount under the Franchise Agreement dated 23.03.2019. As a consequence to the alleged conduct of Respondent No. 2,

Supreme Court Reports

the Appellant on 16.02.2024 approached the Trial Court by way of an application under Section 9 of the Act being AA No.4 of 2024 seeking various injunctive reliefs to restrain the Respondent No.2 from interfering with the smooth functioning of the Hotel claiming that Clause 5.1 of the Franchise Agreement stipulates that Respondent No.1 will maintain a high moral and ethical standard and atmosphere at the Hotel premises. The Appellant also filed three applications being IA No.5 to 7 seeking interim reliefs to restrain Respondent No.2 from obstructing or impeding in smooth functioning, operations and management of the Hotel pending disposal of AA No.4 of 2024.

7. The Trial Court vide Order dated 17.02.2024 granted *ad-interim* injunction against the Respondent No.2 as prayed for in IA No.5 to 7 till next date of the hearing and issued notice to the Respondents.
8. Thereafter, the Appellant on 11.04.2024 issued an Arbitration notice to the Respondents invoking arbitration in terms of Clause 19.1 of the Franchise Agreement for the adjudication of the disputes that have arisen between the parties. The Respondent No. 2, in response to the said notice dated 11.04.2024, sent a reply on 23.04.2024 refusing to concur with the nomination of the Arbitrator claiming that he has not signed any Franchise Agreement with the Appellant. The Appellant, on 28.06.2024 filed CMP No.314 of 2024 under Section 11(6) of Act before the High Court seeking appointment of sole Arbitrator and for referring the parties to arbitration under the Franchise Agreement dated 23.03.2019.
9. The Respondent No.2 has filed written statement before Trial Court in AA No. 4 of 2024 denying allegations and contended that the suit itself is not maintainable claiming that Respondent No.2 is not a signatory to the Franchise Agreement. He contested that Respondent No.5 is not allowing Respondent No.2 to inspect the books of accounts, ledgers or bills etc.
10. The Trial Court vide Order dated 01.10.2024 dismissed IA Nos.5 to 7 filed by the Appellant with the observation that the Appellant failed to produce any document demonstrating that Respondent No.2 granted consent for the contested Franchise Agreement, thereby failing to establish a *prima facie* case or the balance of convenience in its favour. It was further stated that AA No.4 of 2024 was filed on 16.02.2024, and more than six and a half months had elapsed without the Appellant producing any document except for the notice

**Regenta Hotels Private Limited v.
M/s Hotel Grand Centre Point and Others**

and reply for initiation of arbitral proceedings as mandated after filing an application under Section 9 of the Act nor was any substantive material produced to satisfy the requirements under Section 21 of the said Act, as Respondent No.2 had not agreed to refer the dispute to arbitration. The Trial Court also observed that all partners held equal rights under the partnership deed and must obtain mutual written consent for any substantive decision or agreement.

11. This Order dated 01.10.2024 was challenged by the Appellant in Miscellaneous First Appeal No. 7168 of 2024 (AA) before the High Court. The High Court vide Impugned Judgment dismissed the appeal holding that Section 9(2) of the Act read with Rule 9(4) of the 2001 Rules mandate that arbitral proceedings must commence within 90 days or three months from the date of an interim order or presentation of the Section 9 application, failing which any interim relief granted stands vacated automatically. The High Court reiterated that arbitral proceedings commence only when a request for reference to arbitration is received by the respondent, and mere issuance of notice does not constitute such commencement. The petition under Section 11 of Act was filed on 28.06.2024 which was beyond the permissible period, as arbitral proceedings ought to have been initiated by 17.05.2024. The High Court, however, rejected the contention of the Respondent No. 2 that he is not a signatory to Franchise Agreement and noted that the Trial Court erred in relying upon clauses of the partnership deed to conclude absence of a *prima facie* case or existence of Franchise Agreement dated 23.03.2019 as the same evidenced consent among partners and was acted upon as the Hotel kept running as per agreement and the partners kept quiet from 2019 to 2023. The High Court nevertheless upheld the dismissal of the Appellant's application, holding that failure to initiate arbitration within 90 days rendered the interim order unsustainable, and issuance of notice alone could not be construed as commencement of arbitration.
12. It would not be out of way to mention here that the above finding of High Court with respect to the existence of the Franchise Agreement dated 23.03.2019 has not been challenged by the Respondent No.2. It is only the Appellant being aggrieved by the dismissal of the Appeal by the High Court on the ground of arbitration proceedings having not commenced within 90 days from the date of *ad-interim* injunction, is before this Court.

Supreme Court Reports

13. This Court, on 17.12.2024, while issuing notice to the Respondents had granted interim injunction in terms of Order dated 17.02.2024 of the Trial Court and continued it till the disposal of the Appeal.
14. The learned counsel for the Appellant submits that the arbitration proceedings commence on the date of receipt of notice given under Section 21 of the Act unless parties agree otherwise. The phrase commencement is defined under Section 21 of the Act, and it is also used in Section 9, 43(2) and 85(2) of the Act. In all these contexts, this Court has held that it is the date of receipt of notice under Section 21 that is determinative of the commencement of arbitration proceedings. Reliance is placed on ***Sundaram Finance Ltd. v. NEPC India Ltd.*¹, *Arif Azim Company Limited v. Aptech Limited*², *Milkfood Ltd. v. GMC Ice Cream (P) Ltd.*³, *Geo Miller and Company Private Limited v. Chairman, Rajasthan Vidyut Utpadan Nigam Limited*⁴**. He submits that the dispute between the brothers, who are partners of the Respondent No.1, have no bearing on the Franchise Agreement and in any case, it has been decided in favour of the Appellant by the High Court by the Impugned Judgment which has not been challenged by the Respondents either by filing an appeal or by cross-objections. The learned counsel further submits that the Respondent No.2 and other partners suppressed an agreement dated 09.10.2025 entered into between them by which they have decided to close the hotel in violation of this Court's interim order dated 17.12.2024.
15. The learned counsel for the Respondent No.2 submits that the Appellant's right in the management of the Hotel is limited to getting royalty payment of 5% each month along with taxes, while the Respondent No.1 retains and exercises direct management and control over the day-to-day operations of the Hotel, which was the duty Respondent No.5 has undertaken and despite completion of two years has not stepped down. The Respondent No.5 has not taken written consent of all the partners while signing the Franchise Agreement on behalf of the Respondent No.1. He submits that Section 21 of

1 (1999) 2 SCC 479

2 (2024) 5 SCC 313

3 (2004) 7 SCC 288

4 (2020) 14 SCC 643

**Regenta Hotels Private Limited v.
M/s Hotel Grand Centre Point and Others**

the Act is a deeming provision whereby the date of commencement of arbitral proceedings relates back to the date on which the notice invoking arbitration was received. Section 43(2) of the Act provides that an arbitration is deemed to have commenced from the date referred in Section 21 of the Act. Reliance is placed on ***State of Goa v. Praveen Enterprises***⁵, contending that the primary object of Section 21 of the Act is to determine the date of commencement of the arbitral proceedings to decide if claims were *ex-facie* time barred. The learned counsel further submits that “commencement” in Section 21 is not for the purpose of Section 9(2) of the Act but for Section 43, which explicitly mentions Section 21.

16. Having heard the learned counsels for the parties and upon perusal of material on record, it emerges that the finding as returned by the High Court with regard to the existence of Franchise Agreement dated 23.03.2019 is not challenged by the Respondent No.2 by way of cross-objection in this appeal nor is there any material on record to show that any other petition is filed in this regard. The said finding has thus attained finality to the effect that the consent of Respondent No.2 was there to the Franchise Agreement.
- 16(A). The only issue which concerns the present Appeal is whether the High Court was correct in holding that the Appellant has initiated arbitral proceedings after the expiry of 90 days period as prescribed under Section 9(2) of the Act, thereby resulting in automatic vacation of *ad-interim* injunction in terms of Rule 9(4) of the 2001 Rules.
17. Before delving into the jurisprudential foundation governing the commencement of the arbitral proceedings under the Act, let us reproduce the relevant provisions of the Act for convenience.
18. Sections 9, 21 and 43(2) of Act read as follows:

“9. Interim measures, etc., by Court.—(1) A party may, before or during arbitral proceedings or at any time after the making of the arbitral award but before it is enforced in accordance with section 36, apply to a court—

Supreme Court Reports

- (i) *for the appointment of a guardian for a minor or a person of unsound mind for the purposes of arbitral proceedings; or*
- (ii) *for an interim measure of protection in respect of any of the following matters, namely:—*
 - (a) *the preservation, interim custody or sale of any goods which are the subject-matter of the arbitration agreement;*
 - (b) *securing the amount in dispute in the arbitration;*
 - (c) *the detention, preservation or inspection of any property or thing which is the subject-matter of the dispute in arbitration, or as to which any question may arise therein and authorising for any of the aforesaid purposes any person to enter upon any land or building in the possession of any party, or authorising any samples to be taken or any observation to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence;*
 - (d) *interim injunction or the appointment of a receiver;*
 - (e) *such other interim measure of protection as may appear to the Court to be just and convenient,*

and the Court shall have the same power for making orders as it has for the purpose of, and in relation to, any proceedings before it.

(2) Where, before the commencement of the arbitral proceedings, a Court passes an order for any interim measure of protection under sub-section (1), the arbitral proceedings shall be commenced within a period of ninety days from the date of such order or within such further time as the Court may determine.

(3) Once the arbitral tribunal has been constituted, the Court shall not entertain an application under sub-section (1), unless the Court finds that circumstances exist which

**Regenta Hotels Private Limited v.
M/s Hotel Grand Centre Point and Others**

may not render the remedy provided under section 17 efficacious.

21. Commencement of arbitral proceedings.—*Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.*

43. Limitations.—(1) . . .

(2) For the purposes of this section and the Limitation Act, 1963 (36 of 1963), an arbitration shall be deemed to have commenced on the date referred in section 21.”

19. The jurisprudential foundation governing the commencement of arbitral proceedings under the Act stands on a principled and consistent line of authority emanating from this Court. In ***Sundaram Finance Ltd. (supra)***, this Court, while dealing with the issue as to whether a court has jurisdiction to pass interim orders under Section 9 of the Act even before the arbitral proceedings commence, has observed that reading of Section 21 of the Act clearly shows that the arbitral proceedings commence on the date on which a request for a dispute to be referred to arbitration is received by the respondent.
20. The contours of this principle were later given sharper precision in ***Milkfood Ltd. (supra)***, wherein a three-Judge Bench of this Court held that the Legislature has deliberately adopted the UNCITRAL Model Law’s formulation, whereby the arbitral proceedings commence upon respondent’s receipt of a request or notice that the dispute be referred to arbitration. The provisions under Section 21 of the Act are consistent with Article 21 of the Model Law of UNCITRAL. The Court further observed that the issuance of notice under Section 21 is required to be interpreted broadly and not for the purpose of limitation only but for other purposes also.
21. In ***Geo Miller (supra)***, this Court reaffirmed the principles of ***Milkfood Ltd. (supra)***, holding that for the purpose of determining which law applies or for computing limitation, the date of commencement is invariably the date on which the notice invoking arbitration is received by the respondent. The Court clarified that the procedural route adopted thereafter i.e., whether the parties agree on an arbitrator or whether a Section 11 petition becomes necessary, is irrelevant

Supreme Court Reports

to the date of commencement, which remains tethered exclusively to Section 21 of the Act.

22. In **Arif Azim (supra)**, a three-Judge Bench of this Court has consolidated and restated what is being held in **Milkfood Ltd. (supra)** and **Geo Miller (supra)**. The Court re-emphasized that the date on which the respondent receives a notice or request invoking arbitration is the moment at which the arbitral proceedings commence under Section 21 of the Act. It further clarified that a valid invocation requires the notice to articulate the dispute sought to be referred but once such notice is received, commencement is complete and effective for all legal purposes including limitation, maintainability of the Section 11 Petition and the legal efficacy of any pre-arbitral measures. The relevant portion in paras 88 to 91, are reproduced herein:

“88. Section 21 of the 1996 Act provides that the arbitral proceedings in relation to a dispute commence when a notice invoking arbitration is sent by the claimant to the other party:

‘21. Commencement of arbitral proceedings. — Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.’

89. In *Milkfood Ltd. v. GMC Ice Cream (P) Ltd.* [(2004) 7 SCC 288], it was observed thus : (SCC pp. 301-302 & 307, paras 26-27, 29 & 49)

‘26. The commencement of an arbitration proceeding for the purpose of applicability of the provisions of the Indian Limitation Act is of great significance. Even Section 43(1) of the 1996 Act provides that the Limitation Act, 1963 shall apply to the arbitration as it applies to proceedings in court. Sub-section (2) thereof provides that for the purpose of the said section and the Limitation Act, 1963, an arbitration shall be deemed to have commenced on the date referred to in Section 21.

**Regenta Hotels Private Limited v.
M/s Hotel Grand Centre Point and Others**

27. Article 21 of the Model Law which was modelled on Article 3 of the Uncitral Arbitration Rules had been adopted for the purpose of drafting Section 21 of the 1996 Act. Section 3 of the 1996 Act provides for as to when a request can be said to have been received by the respondent. Thus, whether for the purpose of applying the provisions of Chapter II of the 1940 Act or for the purpose of Section 21 of the 1996 Act, what is necessary is to issue/serve a request/notice to the respondent indicating that the claimant seeks arbitration of the dispute.

29. For the purpose of the Limitation Act an arbitration is deemed to have commenced when one party to the arbitration agreement serves on the other a notice requiring the appointment of an arbitrator. This indeed is relatable to the other purposes also, as, for example, see Section 29(2) of the (English) Arbitration Act, 1950.

49. Section 21 of the 1996 Act, as noticed hereinbefore, provides as to when the arbitral proceedings would be deemed to have commenced. Section 21 although may be construed to be laying down a provision for the purpose of the said Act but the same must be given its full effect having regard to the fact that the repeal and saving clause is also contained therein. Section 21 of the Act must, therefore, be construed having regard to Section 85(2)(a) of the 1996 Act. Once it is so construed, indisputably the service of notice and/or issuance of request for appointment of an arbitrator in terms of the arbitration agreement must be held to be determinative of the commencement of the arbitral proceeding.'

90. *Similarly, in BSNL v. Nortel Networks (India) (P) Ltd. [(2021) 5 SCC 738], it was held by this Court thus: (SCC p. 766, para 51)*

Supreme Court Reports

'51. The period of limitation for issuing notice of arbitration would not get extended by mere exchange of letters, [S.S. Rathore v. State of M.P., (1989) 4 SCC 582 : 1990 SCC (L&S) 50; Union of India v. Har Dayal, (2010) 1 SCC 394; CLP (India) (P) Ltd. v. Gujarat Urja Vikas Nigam Ltd., (2020) 5 SCC 185] or mere settlement discussions, where a final bill is rejected by making deductions or otherwise. Sections 5 to 20 of the Limitation Act do not exclude the time taken on account of settlement discussions. Section 9 of the Limitation Act makes it clear that: 'where once the time has begun to run, no subsequent disability or inability to institute a suit or make an application stops it'. There must be a clear notice invoking arbitration setting out the "particular dispute" [Section 21 of the Arbitration and Conciliation Act, 1996.] (including claims/amounts) which must be received by the other party within a period of 3 years from the rejection of a final bill, failing which, the time bar would prevail.'

91. *In the present case, the notice invoking arbitration was received by the respondent on 29-11-2022, which is within the three-year period from the date on which the cause of action for the claim had arisen. Thus, it cannot be said that the claims sought to be raised by the petitioner are ex facie time-barred or dead claims on the date of the commencement of arbitration."*

23. Upon perusal of the binding decisions of this Court and provisions of the Act, there is no doubt left with regard to the correct conceptualization of "commencement of arbitral proceedings" under the Act. The settled position as emerged is that the commencement of arbitral proceedings is a statutory event defined exclusively under Section 21 of the Act, wherein the respondent's receipt of a request to refer the dispute to arbitration sets the arbitral proceedings in motion and no judicial application i.e. whether under Section 9 or Section 11 petition, constitutes commencement. Therefore, the statutory consequences tied to commencement, including the mandate under Section 9(2) of the Act, must be assessed solely with reference to the date of receipt of request invoking arbitration under Section 21 of the Act.

**Regenta Hotels Private Limited v.
M/s Hotel Grand Centre Point and Others**

24. The contention of the Respondent No.2 that the commencement under Section 21 of the Act is only for the purpose of calculating limitation under Section 43(2) of the Act does not find force with us. Section 21 explicitly provides that arbitral proceedings commence on the date on which a request for dispute to be referred to arbitration is received by the respondent. In absence of any other provision providing for the date of commencement of the arbitral proceedings, Section 21 is to be construed to apply to all the provisions of the Act unless specifically provided as not applicable. The only exception that is carved out in Section 21 pertains to the arbitral agreement itself, providing that unless otherwise agreed by the parties, the date of commencement of arbitral proceedings must be from the date when notice or request invoking arbitration is received by the respondent. Therefore, as per the mandate of Section 9(2) of the Act, the arbitration proceedings shall commence within a period of ninety days from the date of such interim order or within such further time as the court may determine, and such commencement will be the date on which notice invoking arbitration is received by the respondent in consonance of Section 21 of the Act.
25. At this stage, it requires to be mentioned that the consequences flowing from the non-compliance of mandate under Section 9(2) of the Act are not provided for in the said Act. To fill in this gap reference is required to be made at this juncture to Rule 9 of 2001 Rules framed by the High Court as per the powers conferred on it under Section 82 of the Act, which reads as follows:

“Rule 9. Application for interim measure, etc.—

(1) When an application is made for an interim measure, under Section 9 of the Act, the Court shall in all cases, except where it appears that the object of granting the interim measure would be defeated by the delay, before passing the interim order, direct notice of the application to be given to the opposite party:

Provided that, where it is proposed to make an order by way of interim measure without giving notice of the application to the opposite party, the Court shall record the reasons for its opinion that the object of granting the interim measure would be defeated by delay, and require applicant.—

Supreme Court Reports

- (a) to deliver to the opposite party, or to sent to him by registered post, immediately after the order granting the interim measure has been made, a copy of the Application for interim order together with:
 - (i) a copy of affidavit filed in support of the application;
 - (ii) copies of documents on which the applicant relies;
- (b) to file, on the day on which such interim order is granted or on the day immediately following that day, an affidavit stating that the copies aforesaid have been so delivered or sent.

(2) Where an interim order has been granted without giving notice to the opposite party, the Court shall make endeavours to finally dispose of the Application within thirty days from the date on which the interim order was granted and where it is unable so to do, it shall record its reasons for such inability.

(3) In an application for interim measure filed under Section 9, before the commencement of the arbitral proceedings, the applicant shall specifically refer to the steps, if any, already taken to seek arbitration and that he is willing and prepared to take necessary steps with utmost expedition to seek reference to arbitration in terms of the Arbitration Agreement/Clause.

(4) In the case of an application for interim measure made before initiating arbitral proceedings, if the arbitral proceedings are not initiated within three months from the date of the presentation of the Application under Section 9, any interim order granted shall stand vacated without any specific order being passed by the Court to that effect.”

26. Upon the reading of Section 9 of the Act, it is evident that the said section does not provide for the consequences of non-compliance with its mandate of commencing arbitral proceedings within ninety days, however, the said vacuum stands statutorily filled through Rule 9(4) of the 2001 Rules. According to this Rule where an interim order has been granted on an application made under Section 9 of

**Regenta Hotels Private Limited v.
M/s Hotel Grand Centre Point and Others**

the Act but no arbitral proceedings are initiated within three months from the date of presentation of the application, the interim order shall stand vacated automatically.

27. It requires to be noted and mentioned here that Rule 9(4) employs the expression “initiated” whereas Section 9(2) uses the expression “commenced” in the context of arbitral proceedings. As per Concise Oxford English Dictionary (Eleventh Edition, Revised), the term “initiation” connotes the act of causing something to begin or taking the first step towards beginning a process, whereas “commencement” denotes the actual beginning of the process itself, which is a step further than mere initiation. Thus, linguistically, initiation precedes commencement and as per Rule 9(4) the initiation shall be within three months from the date of presentation of such application, which would be before the commencement as per Section 21 of Act and would ideally be the date on which the notice invoking arbitration is sent by a party. However, the expression “initiated” occurring in Rule 9(4) cannot be interpreted in isolation or in a manner divorced from the statutory context in which it appears. Rule 9 has been framed in aid of, and to give procedural effect to, Section 9 of the Act, and therefore the terminology employed therein must be construed harmoniously with the parent provision. If “initiation” in Rule 9(4) were to be understood as something short of “commencement” as contemplated under Section 21 of the Act, the mandate under Section 9(2) prescribing a strict timeline for commencement of arbitral proceedings would be rendered otiose and susceptible to circumvention. Consequently, for the purposes of Rule 9(4), the expression “initiated” has necessarily to be read as “commenced” within the meaning of Section 21 of the Act. It follows that upon failure to commence arbitral proceedings within three months, the period stipulated under Rule 9(4) of 2001 Rules attracts the consequence as provided therein, namely, the interim order shall stand vacated automatically.
28. In the case at hand, the High Court proceeded on the premise that since the petition under Section 11 was filed on 28.06.2024, beyond three months from the date of *ad-interim* Order dated 17.02.2024, the arbitral proceedings had not commenced within time. This view of the High Court rests on a misconception regarding the statutory scheme. The very frame of Section 21 provides that the Legislature has consciously delinked the commencement of arbitral proceedings from any judicial proceedings. This Court, in ***Milkfood Ltd. (supra)***

Supreme Court Reports

described this as a deliberate legislative choice modelled on the UNCITRAL framework, meant to ensure that the commencement of arbitral proceedings is clear and independent of procedural contingencies. The objective of this statutory scheme would be defeated if a court is permitted to substitute the date of commencement under Section 21 with the date of filing a Section 11 petition. Resort to the proceedings under Section 11 would be necessitated only in case there is refusal or no response to the notice under Section 21 of the Act.

29. The High Court in the Impugned Judgment conflates the trigger for arbitral proceedings with remedial mechanism made available when the respondent obstructs or declines to participate. The purpose of Section 21 is to specify the date of commencement of arbitral proceedings in order to determine whether a claim is barred by limitation and whether a party has complied with the requisite statutory or contractual time limit for initiation of arbitration. If the date of filing of the Section 11 petition is to be treated as the date of commencement of arbitral proceedings, as has been observed by the High Court in the Impugned Judgment, that would result into the displacement of commencement of arbitral proceedings as provided under Section 21 and would be contrary to the text and purpose of the Act. Such a position is impermissible as has been consistently held in the dicta of this Court from the decision in **Sundaram Finance Ltd. (supra)** to that in **Arif Azim (supra)**.
30. The rationale underlying Section 9(2) of the Act is that the arbitral proceedings shall be commenced within ninety days from the grant of interim protection. This prevents a party from abusing Section 9 to obtain interim protection without submitting to the arbitral forum and it also ensures that interim measures remain tied to the arbitration they are meant to support. If this safeguard is interpreted in a manner that contradicts the statutory definition of the commencement, to do so would allow courts to rewrite Section 21 *sub silentio*. If the commencement is to be construed from the date of filing of the petition under Section 11 of the Act, the statutory scheme insisting on expedition in commencing arbitration after the grant of interim protection under Section 9 would be rendered incoherent. The applicant could serve notice under Section 21 but still be held non-compliant until a Section 11 petition is filed, an interpretation which would be directly in contrast with the object and purpose of the Act.

**Regenta Hotels Private Limited v.
M/s Hotel Grand Centre Point and Others**

Permitting such an interpretation would mean that the parties would paradoxically be required to file the Section 11 petition to prevent the lapse of interim measures granted under Section 9 of the Act even when the respondent is cooperating, the contractual appointment procedure is underway, or even when the Section 21 notice has only recently been served. This is antithetical to the flexibility and autonomy provided in the Act.

31. The legal position as settled when applied to the present factual matrix yields a clear conclusion. The Trial Court passed the Order dated 17.02.2024 granting *ad-interim* injunction to the Appellant. The period of ninety days as provided under Section 9(2) of the Act would end on 17.05.2024. The Appellant served a notice invoking arbitration on 11.04.2024. The reply of Respondent No. 2 dated 23.04.2024 refusing to join in the appointment of an arbitrator entails that notice had indeed been received and understood as an invocation of the arbitral process by the Respondent No.2. Under Section 21 of the Act, the date of receipt of the notice is the date of commencement of arbitral proceedings. Even if 23.04.2024, the date on which the reply sent by the Respondent No.2, is taken to calculate the period of ninety days, as stipulated under Section 9(2) of the Act and the consequences thereof provided under Rule 9(4) of the 2001 Rules, the arbitral proceedings have commenced well within the time and way before expiry of such periods. The High Court, however, in the Impugned Judgment treated the date of filing of the Section 11 petition i.e. 28.06.2024 as the date of commencement of the arbitral proceedings resulting into the finding that *ad-interim* stay stood vacated and proceedings commenced after the expiry of ninety days period provided under Section 9(2) of the Act. This finding of the High Court cannot sustain as it is contrary to the objective and purpose of the Act. The arbitral proceedings, as commenced by the Appellant, is well within the statutory time frame provided under Section 9(2) of the Act and the rigor of Rule 9(4) of the 2001 Rules cannot be attracted to the Appellant.
32. Therefore, in the light of the above discussion and perusal of material on record, the Impugned Judgment of the High Court is set aside for being unsustainable in law. As a consequence thereof, the Order dated 01.10.2024 of the Trial Court vacating the *ad-interim* injunction also stands set aside, restoring the earlier Order dated 17.02.2024.

Supreme Court Reports

33. Before parting, it is essential that we request the High Court to expeditiously decide the Section 11 petition filed by the Appellant for appointment of the arbitrator on its own merits and in accordance with law, if already not decided. Nothing stated in this judgment will influence or prejudice the arbitral process in any manner.
34. The appeal is allowed in the above terms.
35. As the appeal stands allowed, we would not like to proceed as of now with the Contempt Petition (C) No.189 of 2025 as filed by the appellant and the same is disposed of at this stage.
36. There shall be no order as to costs.
37. Pending application(s), if any, stand disposed of.

Result of the case: Appeal allowed, Contempt Petition disposed of.

[†]Headnotes prepared by: Divya Pandey