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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 09th March, 2026

Pronounced on: 16th March, 2026

+ FAO(OS) (COMM) 31/2026, CM APPL. 11415/2026, CM APPL. 11416/2026 & CM APPL. 11417/2026

ASIAN HOTELS NORTH LIMITED

.....Appellant

Through: Mr. Rajiv Nayyar, Sr. Adv with Mr. Sidhant Kumar, Ms. Shagun Chopra, Mr. Pratham Mehrotra, Mr. Madhav Bhatia, & Ms. Muskan Aggarwal, Advs.

versus

EXCLUSIVE CAPITAL LIMITED & ORS.

.....Respondents

Through: Mr. Siddharth Yadav, Sr. Adv. with Mr. Manav Goyal, Ms. Ritika Gusain, Ms. Amrita Sony & Mr. Aditya Kumar, Advs. for R1.
Ms. Devika Mohan & Mr. Dhruv Negi, Advs. for R3.
Mr. Kunal Tandon, Sr. Adv. with Mr. Chetan Roy, Ms. Natasha & Mr. Prakhar Sah, Advs. for R5.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VINOD KUMAR

J U D G M E N T

REPORTABLE

Per DINESH MEHTA, J.

1. The instant appeal preferred under Order XLIII Rule 1 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'the CPC'*) read with Section 13 of the Commercial Courts Act, 2015 impugns the order dated



07.01.2026 (*hereinafter referred to as the 'impugned order'*), whereby the learned Single Judge while issuing notices has also considered plaintiff's prayer for ad-interim relief (I.A. No. 31761/2025) and passed an order, relevant part of which is as under:-

"6. Till the next date, the defendant no.5 shall hold the title deeds as an interim measure."

2. Bereft of unwarranted details, what is necessary to be taken note of for the present purpose is that respondent No.1/Exclusive Capital Limited instituted a suit for declaration and permanent injunction praying that the Inter-Corporate Loan agreement dated 14.12.2022, (*hereinafter referred to as the 'ICL Agreement'*) said to have been executed in the name of plaintiff (respondent No. 1 herein) and defendant No. 1 (respondent No. 2 herein) be declared void and illegal and also that the assignment deed dated 01.02.2024 purportedly executed between defendant No.1 and defendant No. 2 (respondent No. 2 and respondent No. 3 herein respectively) be also declared void.

3. Permanent injunction was also claimed seeking restraint order *qua* defendant nos.1, 2 and 4, from claiming any rights under the aforesaid ICL Agreement dated 14.12.2022 and assignment deed dated 01.02.2024. An injunction was also prayed that defendant No.5 be restrained from handing over the security documents in its possession to defendant No. 4 or any other entity claiming rights under the ICL Agreement.

4. The facts as pleaded in the original plaint are that the defendant No.4 (Appellant herein- Asian Hotels (North) Limited (in short 'AHNL')), had availed credit facilities from a consortium of banks including IndusInd Bank Limited, YES Bank Limited, Bank of Maharashtra and Axis Bank. These



facilities were secured by various security documents and were subsequently restructured under the one-time restructuring framework introduced by the Reserve Bank of India during the COVID-19 pandemic, pursuant to which a Master Amendment Agreement and a Trust and Retention Account Agreement were executed. Thereafter, by a Deed of Assignment dated 28.12.2022, IndusInd Bank assigned its exposure in the AHNL loan facilities amounting to approximately ₹126.83 crores together with all underlying rights and security interests to the plaintiff- Exclusive Capitals Limited (respondent No.1 herein). To finance part of the acquisition consideration, Respondent No. 1 had earlier received ₹60 crores from Respondent No. 2, Clover Media Private Limited, under an Inter-Corporate Deposit arrangement.

5. The dispute arose when Respondent No. 2- Clover Media Private Limited, relied upon the ICL Agreement and claimed certain rights in relation to the debt of AHNL. Thereafter, by an Assignment Agreement dated 01.02.2024, Respondent No. 2 purportedly assigned such rights to Respondent No. 3 following which claims were made that the rights over the receivables arising from the AHNL debt, together with the related security interests, stood transferred in favour of Respondent No. 3. Subsequently, Respondent No. 3 was substituted in place of Respondent No. 1 in an earlier commercial suit concerning the restructuring of AHNL's loan facilities. Around the same period, information relating to satisfaction of charge over the assets of Asian Hotels (North) Limited was given to the Ministry of Corporate Affairs, which were later contested before the Registrar of Companies. Disputes also arose regarding the custody of the original



security documents that were held by DBS Bank India Limited, acting as the security agent for the lenders. In these circumstances, a civil suit came to be instituted in relation to the claims arising from the alleged ICL Agreement and the subsequent assignment of rights concerning the AHNL debt.

6. When the aforesaid suit came up for admission, the learned Single Judge issued notices and listed the matter for 06.04.2026 and as an interim measure, granted ad-interim relief to the effect that until the next date of hearing, the defendant No.5 (respondent No.5 herein – DBS Bank India Ltd.) shall hold the title deeds.

7. Before dilating upon the submissions of the parties, it is noteworthy that the title deeds of the property in question, were in the custody of defendant No.5.(respondent No.5), which were handed over to defendant no.5 by DBS Singapore.

8. As an ancillary fact, it may also be noted that the appellant (defendant No.4) claims to have filed another suit in the Court of competent jurisdiction seeking mandatory injunction that the title deeds which are lying with the respondent No.5 be directed to be handed over to it. The appellant (defendant No.4 in the original suit) feels aggrieved with the so-called interim relief granted by the learned Single Judge.

9. Mr. Rajiv Nayyar, learned Senior Counsel for the appellant argued that the learned Single Judge ought not to have granted such injunction and rather should have directed that the documents be handed over to the appellant to which the title deeds really belonged. He raised a grievance that the plaintiff for its purported dues of roughly Rs.160 crores cannot be



allowed to get custody of the title deeds of the hotel which is worth Rs.1500 crores.

10. Without prejudice to his rights that entire due amount of loan stands paid, learned Senior Counsel submitted that his client is ready and willing to deposit an amount of Rs.149 crores with the Registrar General of this Court which is the maximum dues along with interest as applicable on 31.03.2026, even if the plaintiff's best case is accepted. Assailing the impugned order, he argued that the impugned order is non-speaking and contrary to statutory provision of Order XXXIX Rule 3 of the CPC and thus liable to be set aside on this count alone. He further submitted that on 25.04.2025, the respondent No.5 had specifically requested for its discharge from the role of security trustee but the same was not done and argued that the learned Single Judge was, therefore, not legally correct in passing the order under challenge.

11. Learned Senior Counsel invited the Court's attention towards document No.25 (page 804 of the paperbook) and highlighted that the memorandum of satisfaction of charge has been issued and an entry to this effect has been made by the Registrar of Companies. He, therefore, submitted that as of today, there is no charge over the property of the company and yet, learned Single Judge has directed that the document of title be kept by defendant No.5. Learned Senior Counsel argued that the final decision of the suit may take substantial time and in case the documents are not ordered to be handed over to the appellant - the owner of the property, its rights will be seriously prejudiced.

12. Mr. Nayyar cited the judgment of Hon'ble the Supreme Court rendered in the case of *Wander Ltd. & Anr. v. ANTOX India P. Ltd. 1990*



SCC OnLine SC 490 and argued that on the basis of principles enunciated therein, learned Single Judge was not justified in granting the injunction in the manner he has done.

13. Mr. Siddharth Yadav, learned Senior Counsel for respondent No.1 - Exclusive Capital Limited (original plaintiff) on the other hand informed rather iterated that the next date of hearing in the matter is 06.04.2026, hardly 28 days from today (i.e. 09.03.2026) and argued that the documents of title deed in any case were in the custody of defendant No.5 and hence, no direction much less an injunction has been granted by learned Single Judge. He further argued that the appellant having appeared before the learned Single Judge has not even cared to file a reply to the stay application or written statement in the suit even as of today and therefore this Court should direct the appellant to go before learned Single Judge and file a reply, (if so desired) and contest the matter there rather than arguing the present appeal, which has no substantial or sustainable grounds.

14. Learned Senior Counsel relied upon the judgment rendered by Hon'ble the Supreme Court in the case of *Gujarat Bottling Co. Ltd. v. Coca Cola Co.*, reported in (1995) 5 SCC 545 more particularly, paragraph no.43 thereof, and argued that in any case, grant of interlocutory injunction is the discretion of the Court. He further submitted that the object of interlocutory injunction is to protect the plaintiff against any injury resulting from infraction of its rights. Paragraph No.43 of the judgment in *Gujarat Bottling (supra)* is reproduced hereunder:

“43. The grant of an interlocutory injunction during the pendency of legal proceedings is a matter requiring the exercise of discretion of the court. While exercising the



discretion the court applies the following tests — (i) whether the plaintiff has a prima facie case; (ii) whether the balance of convenience is in favour of the plaintiff; and (iii) whether the plaintiff would suffer an irreparable injury if his prayer for interlocutory injunction is disallowed. The decision whether or not to grant an interlocutory injunction has to be taken at a time when the existence of the legal right assailed by the plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are established at the trial on evidence. Relief by way of interlocutory injunction is granted to mitigate the risk of injustice to the plaintiff during the period before that uncertainty could be resolved. The object of the interlocutory injunction is to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial. The need for such protection has, however, to be weighed against the corresponding need of the defendant to be protected against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated. The court must weigh one need against another and determine where the “balance of convenience” lies. [See: Wander Ltd. v. Antox India (P) Ltd. [1990 Supp SCC 727] , (SCC at pp. 731-32.) In order to protect the defendant while granting an interlocutory injunction in his favour the court can require the plaintiff to furnish an undertaking so that the defendant can be adequately compensated if the uncertainty were resolved in his favour at the trial.”

15. Mr. Nayyar in rejoinder cited judgment in the case of **Rajesh Batra v M/s Grandlay Electricals (India) 1997 (40) DRJ (DB)** more particularly paragraph No.9 of the said judgment and submitted that the appellant’s case is covered by Clause (iv). He further submitted that learned Single Judge has failed to consider that the plaintiff (respondent No.1) had filed a suit for the very same relief, but the same was rejected vide order dated 04.08.2025. He



added that in spite of such position the learned Single Judge has granted interim relief without even providing proper opportunity of hearing.

16. Heard learned counsel for the parties.

17. The appellant has projected its problem out of proportion. As a matter of fact it cannot even be a grievance, let alone a serious grievance. The appellant feels aggrieved of purported ad-interim direction making way for an interim arrangement given by the learned Single Judge that the title deeds shall be held by defendant No.5. Given that the title deeds were in any case lying with defendant No.5, as a security trustee, even if the so called ad-interim injunction was not granted, the situation would have remained the same.

18. According to us, learned Single Judge has not passed an interim injunction and as a matter of fact he has turned down the request of the parties to hand over the title deeds. Such prayer if were to be made, could be made by the plaintiff only and that too the prayer could not have been granted. Because the same would amount to granting final relief. So far as the present appellant who was the defendant No.4 in the original suit is concerned, in our opinion, it could not have claimed the title deeds in a suit in which it is the defendant unless a counter claim is filed which has admittedly not been filed.

19. Hence, the main plank of the arguments of Mr. Nayyar that no reason has been recorded is absolutely untenable because the stay application has not been finally decided and it is only at the stage of final decision of stay application or application under Order XXXIX Rules 1 & 2, CPC, the Court



is required to give complete reasons and record a finding about prima facie case, irreparable loss and balance of convenience.

20. Since the Court did not have any other material than the plaint, it was not expected to give detailed reasons. Even if it is presumed that the Court was required to give some reasons while passing an interim injunction, we are of the view that solely for the want of reasons, the ad-interim injunction cannot be set aside, unless it shocks the conscience of the Appellate Court. We do not find anything extraordinary in the ad interim order which learned Single Judge has passed because, the documents of title were in any case, lying with defendant No.5.

21. Though in our order dated 27.02.2026, we have held the instant appeal to be maintainable but while doing so we had clearly observed that while interfering with an interlocutory order, the Appellate Court is required to keep the bar very high. The yardstick which has been laid vide various other judgments of Hon'ble the Supreme Court, including the judgment in the case of *Wander (supra)* does not allow us to interfere to the extent prayed for by the appellant. We hereby elucidate or delineate the scope of interference by the Appellate Courts, while hearing an appeal under Order XLIII Rule 1(r) of the CPC laying challenge to the orders granting or refusing an ad-interim relief/order:-

(i) keeping the bar high would necessarily mean that while interfering in the orders granting or refusing an ad-interim relief/order, the Appellate Court should consider as to whether the grant of the interim relief has seriously prejudiced the cause and rights of the appellant before it.



(ii) in case of non-grant of interim relief, the Appellate Court considering the appeal under Order XLIII Rule 1 (r), CPC should record a finding as to what substantial prejudice has been caused to the appellant on account of interim relief not being granted.

(iii) unless the appellant challenging the ad interim injunction granted in an application under Order XXXIX Rules 1 & 2, CPC, is able to demonstrate that ad-interim relief, which has been granted or refused during the pendency of stay application, is based on no material or the Court granting such relief has no jurisdiction to entertain the suit.

(iv) non-grant of ad-interim relief has posed serious threat to the property or has caused irretrievable injury to the appellant.

(v) the Appellate Courts would entertain such appeals only if the appellant is able to show urgency of such a nature that unless interfered immediately, the whole purpose of the suit would be frustrated.

22. Pertinently, the matter had first come up before the learned Single Judge on 07.01.2026 and the next date of hearing fixed is 06.04.2026. When we heard the matter on 09.03.2026, there hardly remained 28 days' time to file reply and contest the matter before learned Single Judge. The appellant's prayer that the ad-interim relief which has been granted by the learned Single Judge be set aside, cannot be entertained in the present appeal for obvious reasons, which we have set out hereinabove.

23. Adverting to the judgments which the rival counsel have cited, we are of the view that these judgments deal with the principles relating to the



decision of applications for interim injunction *viz.* final adjudication of application under Order XXXIX Rules 1 & 2, of the CPC. There cannot be any quarrel about applicability of the principles enunciated by Hon'ble the Supreme Court in the case of *Wander (supra)* but since the case in hands does not arise out of final order under Order XXXIX Rules 1 & 2, CPC, we are of the view that these judgments need not detain us much, because, these principles would be applicable once the stay application pending before the learned Single Judge is finally decided.

24. According to us, it is not a case worth warranting interference in our appellate jurisdiction under Order XLIII Rule 1(r) of the CPC read with Section 13 of the Commercial Courts Act, 2015. The appeal, therefore, fails.

25. As a word of caution, we may add here that the observations we have made hereinabove are only incidental, which we found were imperative to deal with rival contentions. They may not be treated to be any findings on merits of the case in any manner. Hence, such observations shall not be construed to be binding on learned Single Judge while deciding the application or the suit in any manner and the same shall obviously be decided on the basis of pleadings and rival contentions.

26. All pending applications stand disposed of with this appeal.

**DINESH MEHTA
(JUDGE)**

**VINOD KUMAR
(JUDGE)**

MARCH 16, 2026/kk