

**High Court of Madhya Pradesh, Jabalpur**  
**Bench at Indore**

**BEFORE**  
**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 27<sup>TH</sup> OF JUNE, 2022**

**Review Petition No.587/2022**

**Between: -**

**Virendra Singh Mehta S/o Late Shri Sajjan Singh Mehta,**  
Aged- About 74 years, Occupation- Business,  
R/o: 44, Gulmohar Main, Saket, Indore, District Indore (MP)

**Smt. Kiran Mehta W/o Shri Virendra Singh Mehta,**  
Aged- About 67 years, Occupation- Business,  
R/o: 44, Gulmohar Main, Saket, Indore, District Indore (MP)

**Ankush Mehta S/o Shri Virendra Singh Mehta,**  
Aged- About 40 years, Occupation- Business,  
R/o: 44, Gulmohar Main, Saket, Indore, District Indore (MP)

.....PETITIONERS

(By Shri Amit S. Agrawal, Senior Counsel along with  
Shri Arjun Amit Agrawal, Advocate)

**AND**

**Hemant Mehta S/o Late Shri Rajendra Mehta,**  
Aged- About 42 years, Occupation- Business,  
R/o: Orange Vista, New Palasia, Indore, District Indore (MP)

**Rakhi W/o Sanjay Sahani D/o Late Shri Rajendra Mehta,**  
Aged- About 39 years, Occupation- Housewife,  
R/o: Orange Vista, New Palasia, Indore, District Indore (MP)

**Mala Mehta W/o Late Shri Rajendra Mehta,**  
Aged- About 56 years,  
R/o: Orange Vista, New Palasia, Indore, District Indore (MP)

**Smt. Surya Kumari Mehta Deceased Through Lrs.**  
**Rajkumari W/o Sunil Dugar,**  
Aged- About 72 years, Occupation- Housewife,  
R/o: Flat No.401, Maya Regency, 3/6, New Palasia,  
Indore, District Indore (MP)

**Smt. Surya Kumari Mehta Deceased Through Lrs. Indira W/o Abhay Filodia,**  
Aged- About 70 years, Occupation- Housewife,  
R/o: 132/B, Ganeshkhnd Road, Pune (Maharashtra)

**Smt. Surya Kumari Mehta Deceased Through Lrs. Tara W/o Kiran Shah,**  
Aged- About 68 years, Occupation- Housewife,  
R/o: 11312, Barnsley Way Marriots Ville Md 21104,  
United States of America (Other Country)

**Smt. Surya Kumari Mehta Deceased Through Lrs. Uma W/o Purushottam Dua,**  
Aged- About 66 years, Occupation- Housewife,  
R/o: 352, B, AD Sector, Scheme No.74,  
Indore, District Indore (MP)

**Smt. Surya Kumari Mehta Deceased Through Lrs. Mina W/o Dr. Rajkamal Sindhar,**  
Aged- About 64 years, Occupation- Housewife,  
R/o: 2139, Old Bridge Road, Riverside Ca 92506,  
United States of America (Other Country)

**Smt. Surya Kumari Mehta Deceased Through Lrs. Sheela W/o Virendra Mehta,**  
Aged- About 62 years, Occupation- Housewife,  
R/o: 7, Radio Colony, Near Gandhi Park Colony,  
Indore, District Indore (MP)

**Dr. Jaya Mehta D/o Late Shri Anand Singh Mehta,**  
Aged- About 59 years, Occupation- Social Service,  
R/o: 235-B, Anoop Nagar, Indore, District Indore (MP)

**Dr. Kalpana Mehta Deceased Through Lrs. Aditi Mehta D/o Kalpana Mehta,**  
R/o: 64, Sriagar Main, Indore, District Indore (MP)

**Sunil Mehta S/o Shri Manohar Singh Mehta,**  
Aged- About 54 years, Occupation- Business,  
R/o: 14-15, Gulmarg Colony, Indore, District Indore (MP)

**Smt. Raj Mehta W/o Shri Sunil Mehta,**  
Aged- About 52 years, Occupation- Housewife,  
R/o: 14-15, Gulmarg Colony, Indore, District Indore (MP)

**Shivam Das Mahant S/o Banwari Das Mahan,**  
Aged- Adult,  
R/o: Village Bortalai, Tehsil- Itarsi, District Hoshangabad

Presently R/o- Classic Apartment, Flat No.303, Bengali Chouraha,  
Behind Nakoda Bakery, Kanadia Road, Indore, District Indore (MP)

(By Shri Vishal Baheti, Advocate AND  
Shri Nilesh Agrawal, Advocate)

.....RESPONDENTS

This **REVIEW PETITION** coming on for orders this day, the court passed the following:

**ORDER**

This review petition has been filed by the review petitioners under Section 114 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 read with Article 215 of the Constitution of India for review of the judgment dated 04.05.2022 (Annexure RP/1) passed in Arbitration Appeal No.35/2018.

2. The case of the review petitioners is that the aforesaid Arbitration Appeal (AA No.35/2018) was filed by the petitioners against the order dated 21.03.2018, passed by the learned 12<sup>th</sup> Additional District Judge, Indore in Miscellaneous Judicial Case (MJC No.02/2016), under Section 9 of the Arbitration & Conciliation Act, 1996 (herein after referred to as the Act of 1996), whereby the application filed by the petitioners for temporary injunction was rejected.

3. AA No.35/2018 was dismissed by this Court with the following observations: -

“39. Also heard **A.A. No.35/2018**, being an appeal against the order 21.3.2018 passed by the learned XII Additional District Judge, Indore in MJC No.2/2016 under Section 9 of the Arbitration and Conciliation Act, 1996. Considering the fact that this appeal is pending since 2008 and the original case is of 2002, and there is no interim relief in favour of the appellant, no cse for interference is made out at this stage. Accordingly, the appeal stands **dismissed.**”

4. Learned Senior Counsel appearing for the review petitioners has drawn the attention of this Court to the finding recorded by this Court that there was no interim relief in favour of the appellants is contrary to the record, as the lower Court had passed an interim order on 13.05.2016, against creation of third party rights, and in AA No.20/2018, which was also disposed of by this Court along with AA No.35/2018 on 04.05.2022, and the respondents through their counsel made a statement that they do not intend to create any third party rights, however, these facts escaped the attention of this Court and thus, there is an error apparent on the face of the record while passing the aforesaid order under review.

5. Shri Agrawal, has also submitted that in AA No.20/2018, certain directions have been issued by this Court which have to be complied with by the respondents; and in case if the order is not complied with, the same would be required to be executed by resorting to Section 36 of the Act of 1996, thus, it is submitted that the respondents be directed not to alienate the property in any manner.

6. Shri Vishal Baheti, learned counsel appearing for the respondent (s), on the other hand, has opposed the prayer and it is submitted that once the final judgment has been delivered by this Court in AA No.20/2018, any interim order passed in the aforesaid appeal would also stand merged or vacated on account of the final order. Hence, no case for interference is made out. It is also submitted that so far as the undertaking given by the respondent (s)

in AA No.20/2018 is concerned, it was only a consent order; and has no relevance at this juncture.

8. Heard learned counsel for the parties and perused the record.

9. From the record, it is apparent that there was an interim order in operation by the lower Court dated 13.05.2016; and in AA No.20/2018 also which was a tagged along with the present appeal (AA No.35/2018), the parties have agreed not to create any third party rights. Thus, it is apparent that the observation of this Court, that there was no interim relief in favour of the petitioners constitutes an error on the face of the record, which deserves to be rectified.

10. So far as the interim order passed under Section 9 of the Act of 1996 is concerned, relevant excerpt of the same provides as under-

**“9. Interim measures, etc. by Court. - (1)**

A party may, before or during arbitral proceedings or at any time after making of the arbitral award but before it is enforced in accordance with section 36, apply to a court-  
.....”

(Emphasis supplied)

11. In such circumstances, it cannot be said that merely passing an interim order at any prior stage, before the final award is passed, would suffice and would achieve the very purpose of passing an interim order under Section 9 of the Act of 1996, in fact, in the considered opinion of this court, an interim order must be of such a nature so that it continues to safeguard the interest of the claimant till the award is enforced and it is the court's duty to ensure that the

arbitration proceedings reach to its logical ends by passing such interim orders which ensure that the award is executed in the letter and spirit of Section 9 of the Act of 1996.

**12.** Resultantly, the review petition stands allowed, and the order dated 04.05.2022 passed in AA No.20/2018 is hereby modified and in place of para no.39 (supra), it would now read as under:-

“39. Also heard **A.A. No.35/2018**, being an appeal against the order 21.3.2018 passed by the learned XII Additional District Judge, Indore in MJC No.2/2016 under Section 9 of the Arbitration and Conciliation Act, 1996. Considering the fact that this appeal is pending since 2008 and the original case is of 2002, and as there was already an interim relief granted by the district court which has also continued in this appeal as per the undertaking given by the respondents that they shall not alienate the disputed property, the aforesaid order is hereby made absolute and now it is directed that till the final order passed by this court in AA No.20/2018 is executed, the respondents shall not alienate the disputed property in any manner and no third party rights shall be created. Accordingly, the appeal stands **allowed and disposed of.**”

**13.** With the aforesaid observations, the Review Petition No.587/2022 stands **disposed of.**

All the other pending interlocutory applications, if any, shall stand **disposed of.**

Let a copy of this order be place in A.A. No.20/2018.

**(Subodh Abhyankar)**  
**Judge**