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

COMMERCIAL ARBITRATION PETITION (L) NO.24421 OF 2026

Limited Liability Company "LTB" ... **Petitioner**

V/s.

1. **Shri Vaibhavi Logistics**

2. **E F C Logistics India Private Limited**

3. **JMJ Container Solution**

4. **Kashipur Infrastructure And Freight Terminal Private Limited** ...**Respondents**

Mr. Prathamesh Kamat, Mr. Nakul Jain a/w Ms. Apurva Mehta Pohanerkar a/w Mr. Anuj Hande i/by ANB Legal, for the petitioner.
Mr. Venkatesh Dhond, Sr. Counsel a/w Mr. Akshay Kolse Patil, Mr. Prateek Pansare, Dr. Shrikant Hathi, Ms. Binita Hathi and Mr. Pritish Das i/by Brus Chambers, for the Respondent No.1.
Mr. Kayush Zaiwalla a/w Mr. Laxman Jain i/by Jainish Jain, for the Respondent No.2.
Mr. Mangesh Patel, for the Respondent No. 4

CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 21, 2026

PRONOUNCED ON : AUGUST 27, 2026

JUDGMENT:

1. The Petitioner has filed the present Petition under Section 9 of the Arbitration and Conciliation Act, 1996, seeking interim measures against Respondent No.1 and Respondent Nos.2 to 4, who are stated to be acting for and on behalf of Respondent No.1.

2. The facts and circumstances which have given rise to the present Petition are as follows. The Petitioner is the owner and operator of 138 tank containers, which were handed over to Respondent No.1, its Indian agent. Respondent No.1 was appointed as the Petitioner's agent in India under the Agency Agreement dated 4th March 2021 in respect of these 138 tanks. Respondent No.1 thereafter placed the tanks with Respondent Nos.2 to 4. Respondent Nos.2 to 4 are the depots where the Petitioner's tank containers were stored by Respondent No.1. For the purpose of the present arbitration, Respondent Nos.2 to 4 are parties claiming through and under Respondent No.1 and they have physical possession of the subject matter of the arbitration, namely, the Petitioner's tank containers. The Petitioner and Respondent No.1 have entered into three agreements. The first is the Agency Agreement dated 4th March 2021, under which Respondent No.1 was appointed as the Petitioner's agent in India and which contains an arbitration clause. The second is the Master Tank Container Lease Agreement dated 20th November 2023, under which Respondent No.1 had given certain containers on lease to the

Petitioner and which contains an arbitration clause. The third is the Agency Agreement dated 8th December 2020, under which Respondent No.1 appointed the Petitioner as its agent in Russia and which contains an arbitration clause.

3. The Petitioner has stated that, in the present Petition, it is restricting its reliefs to those arising under the 4th March Agreement. The Petitioner is therefore pressing only prayer clause (a). It is not pressing prayers (b) and (d) to (f), which arise from its claims under the 20th November Agreement and the 8th December Agreement. The Petitioner seeks liberty to apply for those reliefs at the appropriate stage in separate proceedings. After arriving in India, the Petitioner's 138 T-11 ISO tank containers were handed over to Respondent No.1 under the 4th March Agreement. Respondent No.1 was required to provide services in India in relation to the handling, booking and storage of these tanks. Under Clause 3.5.1 of the 4th March Agreement, Respondent No.1 agreed to deliver the Petitioner's tanks back to the Petitioner whenever instructed to do so. On the date of filing the Petition, all 138 tanks were stated to be with the depots of Respondent Nos.2 to 4 under the account of Respondent No.1. The details showing which tanks were lying with which depot are set out in Exhibit 'EE'. Exhibit 'EE' at page 235 of the Petition contains the list and identification of the T-11 tank containers lying with Respondent Nos.2 to 4. Out of the 138 tanks, 131 are stated to be with Respondent No.2, 5 are with Respondent No.3 and 2 are with Respondent No.4. The Petitioner has therefore sought, by prayer clause (a), unconditional release of these tanks in its favour.

4. Respondent No.1 has taken the following stand. On reading paragraphs 79 to 84 of its Reply, it appears that Respondent No.1 has no objection to the return of the Petitioner's tanks. However, in paragraphs 97 and 101 of its Reply, Respondent No.1 has claimed that it is entitled to exercise a lien over the tanks until the amounts claimed by Respondent No.1 under separate agreements are fully paid by the Petitioner. Respondent No.1 has contended that, since the Petitioner originally sought reliefs under the 20th November Agreement and the 8th December Agreement, the present Petition was not maintainable. According to Respondent No.1, the Petitioner cannot now avoid those reliefs merely by stating that it does not press them or by seeking to delete those claims. According to Respondent No.1, the consequence is that the Petition must be dismissed as not maintainable.

5. Respondent No.4 has raised the following objections. It has contended that this Court has no territorial jurisdiction because the containers are situated in Uttarakhand. It has contended that no cause of action has arisen against Respondent No.4 within the jurisdiction of this Court and that the Petitioner has not obtained leave under Clause XII of the Letters Patent. Respondent No.4 has contended that there is no arbitration agreement between the Petitioner and Respondent No.4. It has stated that it is only a bailee of the containers and that, in respect of the four containers lying with it, a sum of Rs.57,297.02 was due up to 10th August 2026 towards terminal and other service charges. From the Reply filed by Respondent No.4, it is clear that Respondent No.4 has four tanks belonging to the Petitioner in its custody. These tanks were parked with Respondent No.4 by Respondent No.1. The Petitioner therefore contends that it is entitled to obtain unconditional custody of all four containers lying with Respondent No.4.

6. Respondent No.2 has taken the following stand. Respondent No.2 has admitted that 132 ISO tanks were stationed at its depot by Respondent No.1. It has stated that two tanks mentioned in Exhibit 'EE', namely KUKU2500296 and SWIU2260102, are not parked at its depot. Respondent No.2 has relied upon the Memorandum of Understanding dated 16th July 2026, marked as Exhibit 'A' to its Reply at page 6. According to Respondent No.2, under that MoU, Respondent No.1 accepted that an amount of Rs.34,46,986/- was outstanding and payable to Respondent No.2. Respondent No.2 has stated that, as on 20th August 2026, an amount of Rs.17,23,493/- remained payable to it. Respondent No.2 has given its No Objection for release of the tanks, but subject to payment of the outstanding amount.

7. In view of the rival submissions, the following questions arise for consideration. First, where there is no express contractual provision permitting recovery across different contracts, whether a party can exercise a lien or retain goods which were handed over to it under one contract for securing a claim arising under another contract. Second, where a composite Petition contains claims under several agreements having different arbitration clauses and the Petition is otherwise not maintainable, whether the Petitioner can choose not to press some of the reliefs and seek liberty to claim those reliefs separately. Third, whether this Court can grant relief against Respondent Nos.2 to 4, who have possession of the subject matter of the arbitration and claim through and under Respondent No.1, merely because Respondent Nos.3 and 4 are situated outside the territorial jurisdiction of this Court.

8. Mr. Prathamesh Kamat, learned Advocate appearing for the Petitioner, submitted that the Petitioner is entitled to restrict the present Petition to the reliefs arising under the 4th March Agreement and is entitled not to press, at this stage, the reliefs and claims arising under the 20th November Agreement and the 8th December Agreement, with liberty to pursue those claims separately. He submitted that during the hearing on 21st August 2026, the Petitioner had stated before this Court that it was restricting the present Petition to the reliefs under the 4th March Agreement and was not pressing, at this stage, the reliefs and claims arising under the 20th November Agreement and the 8th December Agreement, with liberty to take appropriate proceedings in respect of those claims. According to him, such a course is permissible under Order XXIII Rule 1(3)(b) of the Code of Civil Procedure, 1908. This provision permits the Court to allow a party to withdraw a suit or part of a claim when the Court is satisfied that there are sufficient grounds for allowing the party to institute a fresh proceeding in respect of the subject matter or part of the claim. He submitted that, in the present case, the requirement under Order XXIII Rule 1(3) is satisfied. If the objection of Respondent No.1 that a composite Petition based on different agreements is not maintainable is accepted, that would constitute sufficient ground for permitting the Petitioner to withdraw the claims arising under the other two agreements, with liberty to pursue them in separate proceedings. He submitted that although the claims and reliefs under the other two agreements were included in the present Petition, they have not yet been adjudicated. Since Respondent No.1 has objected to the Petitioner combining the claims arising under the different agreements in one Petition, the Petitioner is seeking permission to withdraw those reliefs and pursue them separately. According to him, no prejudice would be caused to Respondent No.1 if such liberty is granted. He relied upon the judgment of the Supreme Court in *Sarguja Transport Service v. State Transport Appellate Tribunal, reported in (1987) 1 SCC 5*, and submitted that Order XXIII Rule 1(3) gives the Court power to permit withdrawal of a suit or part of a claim with liberty to institute separate proceedings. According to him, the purpose of this provision is to protect a genuine claim from being lost merely because, for some reason, the entire claim cannot conveniently be pursued in the same proceeding. He submitted that the law recognises that a Plaintiff may have several claims in one proceeding but may later find that those claims cannot properly be pursued together. In such a situation, if sufficient grounds are shown, the Court can permit withdrawal of part of the claim with liberty to institute a fresh proceeding. He relied upon *Atul Krushna Roy v. Raukishore Mohanty, reported in AIR 1956 Ori 77*, where the Orissa High Court held that the expression "other sufficient grounds" should not be given a narrow meaning by limiting it only to formal defects. According to that decision, the words "other sufficient grounds" are wide enough to cover other circumstances which justify withdrawal. He relied upon *Sambanda Naicker v. Ranganayaki Ammal, reported in (1956) 69 LW 767*, where the Madras High Court held that even where withdrawal is sought at a later stage, a liberal approach may be taken while considering Order XXIII Rule 1, because such an approach would cause less hardship to the Plaintiff seeking permission to withdraw the suit or part of the claim.

9. Mr. Kamat next submitted that Respondent No.1 cannot retain the Petitioner's 138 tanks by claiming a lien for amounts allegedly due under different agreements. According to him, unless there is an express contractual provision permitting such cross-contractual recovery, a party cannot retain goods handed over under one contract for securing a claim arising under another contract. He submitted that the three agreements relied upon by Respondent No.1 are separate agreements and each agreement contains a separate arbitration clause. Therefore, disputes arising under each agreement would have to be referred to arbitration separately. Respondent No.1 has stated that "The nature of disputes under the Arbitration Clauses is different". If that is so, a claim arising under the 4th March Agreement cannot be mixed with a claim arising under the other two agreements. Therefore, if the Petitioner raises a claim in arbitration under the 4th March Agreement, Respondent No.1 cannot use that proceeding to raise a claim for alleged dues arising under the other agreements. Respondent No.1 would have to make such claim in the appropriate separate arbitration. He submitted that Respondent No.1 had claimed a lien over the tanks for the first time only in its Affidavit filed before this Court. According to the Petitioner, the earlier correspondence did not contain any such claim. The demand made in the correspondence was only for "re-cleaning of tanks" and that too "with no additional costs". Therefore, according to the Petitioner, the later claim of lien is an afterthought. He submitted that the settled legal position is that a lien or right of retention arising from Contract A cannot be used to secure or satisfy a claim arising under Contract B unless there is an express contractual provision permitting such action.

10. Mr. Kamat submitted that Respondent No.1 cannot claim a particular lien under Section 170 of the Indian Contract Act, 1872. According to him, Respondent No.1 has not carried out any work on the Petitioner's tanks which has improved the tanks or added any value to them. There is no provision in any of the agreements permitting Respondent No.1 to retain the 138 containers as security for any other claim. He relied upon *Dmitrii Vladimirovich Sheianov v. Sarner International Ltd., [2020] EWHC 1214 (QB)*, in support of this submission. He submitted that Section 171 of the Contract Act deals with general lien and permits such lien only in favour of specified categories of persons, namely bankers, factors, wharfingers, attorneys of a High Court and policy brokers. According to him, Respondent No.1 does not fall within any of these categories and therefore cannot claim a general lien over the Petitioner's containers.

11. Mr. Kamat relied upon the judgments in *Strider Pharma Science Ltd. v. Round The Clock Logistics Pvt. Ltd., [CS(COMM) 438/2023, decided by the Delhi High Court on 28th July 2023], Lonankutty Anthony v. The Joint Registrar of Co-operative Societies, [2016 SCC OnLine Ker 481], Anax Industries Pvt. Ltd. v. Micro Logistics (I) Pvt. Ltd., [2021 (5) Mh.L.J. 622], and Thread and Needles and Anr. v. Canara Bank and Anr., [2024 SCC OnLine Del 8643]*, in support of his submissions regarding the right of lien and retention.

12. Mr. Kamat then submitted that the present Petition is maintainable against Respondent Nos.2 to 4 even though they are not parties to the arbitration agreements. He submitted that the tanks and containers identified in Exhibit 'EE' at page 235 of the Petition are physically in the possession of Respondent Nos.2

to 4. Therefore, the Court can grant appropriate interim relief against them for securing the subject matter of the arbitration. He relied upon *Housing Development and Infrastructure Ltd. v. Mumbai International Airport Pvt. Ltd., [2013 SCC OnLine Bom 1513], Valentime Maritime Ltd. v. Kreuz Subsea Pte. Ltd., [2021 SCC OnLine Bom 75], M.P. Space Dynamics Pvt. Ltd. v. Janardan Chavan & Ors., [2021 SCC OnLine Bom 6142], and Gatx India Pvt. Ltd. v. Arshiya Rail Infrastructure Ltd., [2014 SCC OnLine Del 4181]*, in support of this proposition. He submitted that Respondent Nos.2 to 4 received custody of the Petitioner's containers from Respondent No.1. They are therefore claiming possession through and under Respondent No.1. If the Petition is maintainable against Respondent No.1 for securing the subject matter of the arbitration, the fact that the containers have been placed by Respondent No.1 with its depots cannot defeat the relief sought by the Petitioner. According to him, the Court is entitled to direct the persons having actual possession of the containers to preserve and release them in accordance with the order passed in the present Petition.

13. Mr. Kamat submitted that, without prejudice to the Petitioner's main submissions, the Petitioner is willing to secure the amounts claimed by Respondent Nos.2 and 4 in their respective affidavits, subject to the orders of the Court. He submitted that the Petitioner is entitled to disclosure regarding the whereabouts of tank container Nos. KUKU2500296 and SWIU2260102. According to him, Respondent No.1 had parked these two containers with Respondent No.2, but their present whereabouts are not known to the Petitioner. He therefore submitted that appropriate disclosure should be directed in respect of these two containers. He submitted that, in view of the stand taken by Respondent No.4 in its Reply, the Petitioner is entitled to unconditional custody and possession of all the tanks lying with Respondent No.4.

14. Mr. Venkatesh Dhond, learned Senior Counsel appearing for Respondent No.1, submitted that the present Petition has been filed by the Petitioner under Section 9 of the Arbitration and Conciliation Act, 1996, seeking several interim reliefs before commencement of the arbitration proceedings between the Petitioner and Respondent No.1. He submitted that, as originally filed, the present Petition is a composite proceeding based on three different agreements, namely the Agency Agreement dated 8th December 2020 together with the Additional Agreement dated 8th December 2020, collectively referred to as the Russia Agency Agreement, the Agency Agreement dated 4th March 2021, referred to as the India Agency Agreement, and the Master Tanker Container Lease Agreement dated 20th November 2023, referred to as the MTCLA. According to him, the Petition deliberately does not refer to the arbitration clauses contained in these agreements. Respondent No.1 has reproduced the respective arbitration clauses in its Affidavit in Reply, and therefore, for the sake of brevity, they need not be reproduced again.

15. Mr. Dhond submitted that the Petition is not maintainable for three reasons. First, it is based on three separate agreements and each agreement contains its own independent arbitration clause. Second, this Court, as the "Court" defined under Section 2(1)(e) of the Arbitration Act, does not have jurisdiction in respect of the Russia Agency Agreement and the MTCLA because those agreements were executed outside the jurisdiction of this Court and no part of the cause of action arising under those agreements has arisen within its jurisdiction. Third, some of the reliefs, particularly prayer clause (b), relate to a transaction which is not covered by any of the three agreements relied upon by the Petitioner. He submitted that the arbitration clauses contained in the three agreements provide for arbitration in different jurisdictions and under different applicable laws. Therefore, the disputes arising under these agreements cannot be made the subject of one common arbitration. According to him, there cannot be one single arbitral reference for all the disputes between the Petitioner and Respondent No.1 when the contractual arrangements and arbitration clauses are different. Mr. Dhond relied upon the judgment of the Supreme Court in *Duro Felguera, S.A. v. Gangavaram Port Limited (2017) 9 SCC 729* and the judgment of the Calcutta High Court in *Ganpati Technology Services P. Ltd. v. State Fisheries Development Corporation Ltd. 2021 SCC OnLine Cal 4320* in support of his submission. He submitted that in Duro Felguera, the Supreme Court was considering petitions filed under Section 11 of the

Arbitration Act for appointment of arbitrators in respect of five separate contracts. Each contract had an independent existence and contained a separate arbitration clause. Although the arbitration clauses were identical, Gangavaram Port Limited sought one composite arbitral reference for disputes arising under all five contracts. The Supreme Court held that where there are five separate contracts, each having an independent existence and a separate arbitration clause, the disputes cannot be referred to arbitration through one single reference. He submitted that the Calcutta High Court followed the principle laid down in *Duro Felguera* in *Ganpati Technology Services*. That case concerned a Section 9 Petition seeking interim reliefs in relation to disputes arising under two separate contracts. The Petitioner there argued that the disputes could be decided through one composite arbitration. The Calcutta High Court, relying upon *Duro Felguera*, held that one Section 9 Petition could not be maintained in respect of disputes arising under two separate contracts. Mr. Dhond therefore submitted that, on the basis of these decisions, the present Petition, which originally sought reliefs arising under three separate and distinct contracts, is not maintainable.

16. Without prejudice to this objection, Mr. Dhond submitted that the Petitioner has not stated in the Petition which particular agreement it seeks to enforce or under which agreement it seeks relief. The Petitioner has not identified the arbitration clause upon which it proposes to rely for commencing arbitration.

According to him, the Petition, when read as a whole, shows that the Petitioner is seeking composite reliefs arising under all three agreements as though all three agreements formed one single transaction. This shows that, according to the Petition, the three agreements are closely connected, the disputes arising under them are connected, and the disputes cannot be separated from each other. He submitted that the statement now made by the Petitioner during arguments that it is restricting its claim only to the India Agency Agreement cannot be accepted. According to him, the pleadings in the Petition do not make any distinction between the transactions arising under the different agreements. The Petition treats the transactions as one composite arrangement. Therefore, the Petition cannot now be divided merely by making a statement during arguments that only the claims under the India Agency Agreement are being pressed.

17. Mr. Dhond submitted that if this Court nevertheless holds that the present Petition is maintainable, it would mean that the Petitioner's contention that all three agreements are capable of being dealt with in one composite arbitral reference has been accepted. In such a situation, according to him, Respondent No.1's claim that it has a lien over the Petitioner's containers would become valid and enforceable. He submitted that Respondent No.1 has held in detail in its Affidavit in Reply why it claims an amount of USD 389,576.07 from the Petitioner. He submitted that the present Petition has been filed as a response to Respondent No.1's demands for payment of its "long-standing and legitimate dues".

18. Mr. Dhond submitted that Respondent No.1 is entitled to exercise a lien over the Petitioner's tank containers lying in India towards these outstanding dues. He relied upon Section 221 of the Indian Contract Act, 1872, which provides for the agent's lien over the principal's property until the amount due to the agent is paid. According to him, this right becomes relevant in the present case because the Petitioner originally filed one composite Petition seeking reliefs under all three agreements and treated those agreements as interconnected. Therefore, the Petitioner cannot now take a different position and contend that the agreements are separate only for the purpose of defeating Respondent No.1's lien.

19. Mr. Dhond relied upon the judgment of the Supreme Court in *Ram Prasad v. State of Madhya Pradesh & Anr (1969) 3 SCC 24*. He submitted that the Supreme Court has held that the question of lien is a mixed question of fact and law and that, unless there is a contract to the contrary, an agent is entitled to exercise a lien over the property of the principal. He submitted that it is admitted that there are two agency agreements between the parties. According to him, the manner in which the Petition has been drafted shows that these agreements are connected and this is why the Petitioner originally filed a composite Petition. There is no contractual provision which takes away Respondent No.1's right to exercise a lien over the

Petitioner's containers. Respondent No.1 has pleaded its right to exercise such lien. Therefore, according to him, Respondent No.1 is validly exercising its lien over the containers. He submitted that, in any event, as held in *Ram Prasad*, the question of lien involves both facts and law. If the Court accepts the Petitioner's contention at this interlocutory stage, it would effectively amount to recording a finding of fact without the parties having led evidence. According to him, such factual issues can properly be decided only after evidence is led in the arbitration or at trial. Therefore, no order directing return of the Petitioner's containers ought to be passed at this stage.

20. Mr. Dhond submitted that the Petitioner cannot first file one Petition seeking composite reliefs under all three agreements on the ground that the agreements are connected and form one composite arrangement and thereafter contend that Respondent No.1 cannot exercise a lien because its dues arise under another agreement. According to him, the Petitioner cannot take these two inconsistent positions. This would amount to approbation and reprobation. He therefore submitted that, if the present Petition is held to be maintainable, Respondent No.1 is entitled to exercise a lien over the Petitioner's tank containers lying in India until its outstanding dues are paid by the Petitioner.

21. Mr. Dhond submitted that another important aspect is the nature of relief that can be granted under Section 9 of the Arbitration Act. According to him, interim measures under

Section 9 are intended to assist and protect the arbitration which is to be commenced pursuant to the Section 9 proceeding. In the present case the Petitioner is seeking return of its tank containers. According to Respondent No.1, such relief would effectively amount to granting the Petitioner the final relief even before the arbitration has commenced. He submitted that Respondent No.1 has legitimate outstanding dues payable by the Petitioner. The Petitioner is a Russian entity and, according to him, does not have assets in India and appears to be facing financial difficulties. If the containers are returned, there is a possibility that the Petitioner may leave India without commencing arbitration. In that event, Respondent No.1 would lose the only security available to it for recovery of its dues from a foreign entity. He therefore submitted that the balance of convenience is strongly in favour of Respondent No.1 and against the Petitioner.

22. Without prejudice to these submissions, Mr. Dhond submitted that Respondent No.1 is willing to have all disputes between the parties decided by a learned Sole Arbitrator in one arbitral reference. In such a situation, the present Section 9 Petition can be treated as an application under Section 17 before the learned Sole Arbitrator, so that the interim reliefs can be considered by the Arbitral Tribunal.

23. Mr. Mangesh Patel, learned Advocate appearing for Respondent No.4, submitted that the present Petition is founded upon the Agency Agreement dated 4th March 2021, the Master

Tanker Container Lease Agreement dated 20th November 2023, and the Agency Agreement together with the Additional Agreement No. LT-P/224-2020 dated 8th December 2020, which are collectively referred to in the Petition as the "Contracts". He submitted that Respondent No.4 is not a party to, and has not signed, any of these Contracts. Respondent No.4 had never seen these Contracts before receiving the present Petition. It was never consulted in relation to them, does not receive any benefit under them and has not undertaken any obligation under them.

Reasons and Analysis

24. I have considered the Petition, the Replies filed by Respondent Nos.1 to 4, and the submissions made by Mr. Prathamesh Kamat, learned Advocate for the Petitioner, Mr. Venkatesh Dhond, learned Senior Counsel for Respondent No.1, and Mr. Mangesh Patel, learned Advocate for Respondent No.4. I have considered the submissions placed on record for Respondent No.2. The agreements relied upon by the parties and the judgments cited before the Court have been considered.

25. At the beginning, it is necessary to first see what dispute is actually left to be decided in this Petition. At the time of filing, the Petitioner had asked for reliefs arising from three agreements, namely the Agency Agreement dated 8th December 2020, the Agency Agreement dated 4th March 2021 and the Master Tank Container Lease Agreement dated 20th November 2023. However, during the hearing on 21st August 2026, the

Petitioner stated that, for the present Petition, it is restricting its reliefs only to the 4th March Agreement. The Petitioner is not pressing the reliefs arising from the other two agreements at this stage and seeks liberty to take appropriate proceedings for those claims. Therefore, for deciding the present Petition, the Court is concerned with the rights and obligations under the 4th March Agreement and with the 138 T-11 ISO tank containers which were handed over by the Petitioner to Respondent No.1 under that Agreement.

26. Respondent No.1 has first raised an objection that, when the Petition was filed, it was a composite Petition based on three different agreements and each agreement contains a separate arbitration clause. Respondent No.1 relies upon the judgment of the Supreme Court in *Duro Felguera, S.A.*. The principle stated in that judgment is relevant to this objection. In paragraph 22, the Supreme Court noticed that there were "five separate letters of award; five separate contracts; separate subject-matters; separate and distinct work; each containing separate arbitration clause signed by the respective parties to the contract." In paragraph 38, the Supreme Court held that where there are separate contracts having independent existence and separate arbitration clauses, "there cannot be a single Arbitral Tribunal" for all the disputes. Therefore, if the Petitioner had continued to seek reliefs under all the three agreements in one Section 9 Petition, the objection of Respondent No.1 would have required consideration.

27. The position has changed because of the statement now made by the Petitioner. The Petitioner is no longer asking the Court to grant reliefs under all the three agreements in this Petition. It has confined the present Petition to the 4th March Agreement. It has stated that the reliefs under the other two agreements are not being pressed at present and that it wants to pursue them separately. Therefore, the principle in *Duro Felguera* does not require dismissal of the entire Petition. That judgment does not permit separate agreements, having separate arbitration clauses and independent existence, to be treated as one arbitral dispute. But it does not mean that the whole Petition must be dismissed when the Petitioner, before adjudication on merits, confines its case to one agreement and seeks to pursue the remaining claims separately.

28. The reliance placed by the Petitioner on Order XXIII Rule 1 of the Code of Civil Procedure has to be considered only to this limited extent. A proceeding under Section 9 is not civil suit. The provisions of the CPC therefore cannot be applied mechanically to such proceeding. Still, the principle behind Order XXIII can give some guidance where a party does not want to press a part of its claim in the present proceeding but wants to keep its right to pursue that claim separately. In *Sarguja Transport Service*, the Supreme Court held the difference between "abandonment" of a suit and "withdrawal" from a suit with permission to file a fresh suit. The Supreme Court held that the requirement of permission is intended to prevent misuse of the Court process while allowing a genuine claim to be pursued where sufficient grounds exist. The present case is not one where the Petitioner is giving up its claims under the 8th December Agreement and the 20th November Agreement. The Petitioner says that it is not pressing those claims in the present Petition because Respondent No.1 has objected to bringing them together with the claim under the 4th March Agreement. The Petitioner wants to pursue them separately. Those claims have not been decided on merits. Therefore, no finding in this Petition can operate as a decision against either party concerning those claims. In such circumstances, there is no reason to require the Petitioner to continue pressing claims which may themselves give rise to an objection regarding maintainability. I therefore find that the Petitioner can restrict the present Section 9 Petition to the 4th March Agreement. The objection of Respondent No.1 that the entire Petition must fail because, when filed, it contained reliefs arising from three separate agreements cannot be accepted. The claims under the 8th December Agreement and the 20th November Agreement are treated as not pressed in the present Petition. The Petitioner shall have liberty to take appropriate proceedings for those claims in accordance with law. Respondent No.1 shall remain free to raise all objections available to it in such proceedings.

29. The next question is whether Respondent No.1 can retain the Petitioner's tank containers until its alleged dues of USD

389,576.07 are paid. Respondent No.1 says that it has a lien over the containers. It relies upon Section 221 of the Indian Contract Act, 1872 and the judgment of the Supreme Court in *Ram Prasad*. The fact that the issue is being considered at an interim stage does not by mean that the claim of lien has to be rejected. If a valid contractual or statutory lien is shown, the Court has to consider and protect it. At the same time, merely saying that money is due does not give a party a right to retain every property belonging to the principal. Section 221, as held by the Supreme Court in *Ram Prasad*, is important. In paragraph 5, the Supreme Court held that, unless there is a contract to the contrary, an agent can retain the principal's property "until the amount due to him for commission, disbursements and services in respect of the same has been paid or accounted for to him." The words "in respect of the same" have significance. They show that the right to retain is connected with the property over which the lien is claimed and with the commission, expenses, disbursements or services relating to that property. The Supreme Court held that an agent must have "some possession, custody or control or disposing power in or over the subject-matter in which the lien is claimed." It held that where the property is given to the agent for a particular purpose which is inconsistent with a lien, such lien does not arise. Since an agent's lien is essentially a right to retain possession, it is lost when possession is given up, unless the right of lien was expressly or impliedly reserved.

30. In the present case, the 138 containers were handed over to Respondent No.1 under the 4th March Agreement for carrying out agency services in India. Clause 3.5.1 of that Agreement requires Respondent No.1 to deliver the Petitioner's tanks to the Petitioner when instructed. Respondent No.1 thereafter placed the containers with Respondent Nos.2 to 4. Therefore, the arrangement between the parties shows that the containers were being kept for the Petitioner's business and were required to be returned to the Petitioner when instructed. From the material available, the dues claimed by Respondent No.1 are not shown to be charges for services performed in relation to these 138 tanks under the 4th March Agreement. Respondent No.1 claims that approximately USD 389,576.07 is due from the Petitioner from the overall dealings between the parties. The Petitioner has pointed out that the earlier correspondence did not contain any claim of lien. According to the Petitioner, the earlier demand was only for "re-cleaning of tanks" and "with no additional costs". The Petitioner says that the claim of lien was raised for the first time in the Affidavit filed before this Court. This fact alone does not finally decide the issue. However, at this stage, it makes the claim that all 138 tanks can be retained for general dues less convincing.

31. The distinction between particular lien and general lien held in *Lonankutty Antony*, is important. The Court observed in paragraph 15:

> "15. Putting the issue in perspective, we may say that a lien is the creditor's right to retain the debtor's asset, movable or immovable, until the debt is repaid. If the asset is retained till the debt for which the asset is offered as security is repaid, it is a particular lien. On the other hand, if the asset is retained till any other unconnected debt is repaid, it is a general lien."

32. This distinction has direct relevance here. If the claim of Respondent No.1 is for charges relating to these 138 containers, a question of particular lien may arise. But if Respondent No.1 is retaining these containers for securing amounts claimed under other separate agreements, then it is claiming a cross-contractual right of retention. Such a right cannot be assumed.

33. The judgment in *Strides Pharma Science Ltd.*, is relevant. In paragraph 70, the Delhi High Court considered a lien claimed for services relating to "some other consignment unconnected with the plaintiff and unconnected with the services performed by the defendant no.3 in respect of the plaintiff's goods" and held that such claim was "clearly beyond what is contemplated under Section 170 of the Indian Contract Act, 1872." The facts of that case are not the same as the present case. But the principle is relevant. One set of goods cannot be retained merely to recover money relating to another transaction unless there is a contractual or statutory provision which gives such right. The same judgment considered Section 171 and observed in paragraph 71 that the statutory general lien under that provision applies to bankers, factors, wharfingers, attorneys of a High Court and policy-brokers. The Court noticed that there was no contract permitting the concerned party to exercise general lien over the goods. This Court judgment in *Anax Industries Pvt. Ltd. v. Micro Logistics (I) Pvt. Ltd., 2020 SCC OnLine Bom 4352*, was relied upon for the same principle. The Supreme Court judgment in *Board of Trustees of the Port of Bombay v. Sriyanesh Knitters, (1999) 7 SCC 359*, was considered. The principle stated there is that persons who do not fall within the categories mentioned in Section 171 do not have a statutory general lien. They can retain goods as security for a general balance only where there is an express contract giving them such right.

34. Respondent No.1 is an agent. Therefore, it cannot rely upon Section 171 to claim a general lien. Its relevant statutory basis, if any, would be Section 221. But Section 221 does not give an unlimited right to retain every property of the principal for every amount claimed against the principal. The claim must arise from commission, disbursements or services "in respect of the same". On the material before the Court, Respondent No.1 has not shown any express provision in the 4th March Agreement which permits it to retain these 138 tanks for dues claimed under the other agreements.

35. The judgment in *Ram Prasad* does not assist Respondent No.1 to the extent suggested. Paragraph 6 of that judgment is important. The Supreme Court held that "The question whether an agent can enforce his lien in a particular case is a mixed question of law and facts." The Supreme Court did not enforce the lien in that case because the necessary factual foundation and pleadings were not available. Therefore, the judgment does not mean that once an agent says that money is due, the agent gets a lien over the principal's property. The contractual and factual basis for the lien must first be shown.

36. In the present case, some matters are clear from the material. The Petitioner claims ownership of the tanks. The tanks were handed over to Respondent No.1 under the 4th March Agreement. Clause 3.5.1 requires the tanks to be delivered to the Petitioner when instructed. The present Petition concerns these tanks. Respondent No.1 relies upon dues which it says arise from separate contractual dealings. No clause in the 4th March Agreement has been shown to me which permits Respondent No.1 to retain these tanks as security for those separate dues. In these circumstances, I find that Respondent No.1 has not established, at this stage, a prima facie right to retain the 138 tanks merely for securing its separate monetary claims.

37. The submission that the question of lien is a mixed question of fact and law and therefore cannot be considered at an interim stage cannot be accepted in the manner suggested. The Court is not finally deciding the entire dispute relating to Respondent No.1's monetary claim. Under Section 9, the Court has to consider whether interim protection is required and whether the person retaining the property has shown a sufficient legal basis for doing so. On the material available, Respondent No.1 has not shown such basis. Its final monetary claim can be decided in arbitration. But that does not give Respondent No.1 a right to keep the Petitioner's containers until the arbitration is decided.

38. The plea of approbation and reprobation does not change this conclusion. The Petitioner originally filed a composite Petition. After Respondent No.1 raised an objection, the Petitioner has restricted the Petition to the 4th March Agreement and is not pressing the claims under the other two agreements in this proceeding, while seeking liberty to pursue them separately. These positions are not inconsistent. The Petitioner can say that the agreements are separate and, for that reason, the claims under them should be pursued separately. Therefore, the present stand of the Petitioner cannot be treated as giving up its objection to the cross-contractual lien claimed by Respondent No.1.

39. I do not accept the submission that directing return of the tanks would amount to granting final relief. Section 9 relief is intended to support the arbitration and is not meant to finally decide the entire dispute. But an interim direction for return or protection of property does not, for that reason, become a final order. Here, the Petitioner claims that the tanks belong to it and relies upon Clause 3.5.1, which requires Respondent No.1 to deliver the tanks when instructed. The relief sought is therefore7 connected with protection and return of identified property. The Arbitral Tribunal will remain free to decide the monetary claims of both sides according to law.

40. The balance of convenience, on the material available, favours protection of the Petitioner's property. Respondent No.1 says that the Petitioner is a Russian entity, has no assets in India and may leave India without commencing arbitration. This submission may have relevance when security for a monetary claim is sought under Section 9. But the present relief concerns the Petitioner's own tanks. A mere apprehension that recovery of money may become difficult cannot by create a right to retain specific property belonging to the Petitioner. If Respondent No.1 has a genuine monetary claim, it can pursue that claim in appropriate arbitration and seek such interim protection as may be available in law.

41. The position of Respondent Nos.2 to 4 requires consideration. Their main objection is that they are not parties to the arbitration agreement. This objection is not sufficient in the facts of the present case. The Petitioner is not asking the Court to impose contractual liability upon Respondent Nos.2 to 4 under the arbitration agreement. The relief sought against them is for delivery of the property which is the subject matter of the arbitration and which is physically in their possession.

42. This Court in *Housing Development and Infrastructure Limited,* considered Section 9(ii)(c). In paragraph 47, the Court held that the focus is on "the subject matter of the dispute in arbitration". It observed that the words "in the possession of any party" can include non-signatories. However, the property must be the subject matter of the arbitral dispute. This principle applies to the present case. The 138 tank containers are the property which the Petitioner seeks to recover under the 4th March Agreement. They are therefore directly connected with the proposed arbitration. The fact that Respondent Nos.2 to 4 are not signatories does not prevent this Court from directing delivery of that property when it is in their physical custody. I therefore do not accept the submission that this Court cannot pass any order against Respondent Nos.2 to 4 merely because they are not parties to the arbitration agreement. What is material is that the identified tanks are in their possession through Respondent No.1 and that the tanks are the subject matter of the dispute. Respondent Nos.2 to 4 cannot get a better right to retain the Petitioner's property merely because Respondent No.1 placed the property with them.

43. The territorial jurisdiction objection raised by Respondent No.4 cannot defeat the Petition. The relief against Respondent Nos.2 to 4 is connected with the main dispute between the Petitioner and Respondent No.1. The Court is not being asked to decide any separate dispute between the Petitioner and Respondent Nos.2 to 4. The Court is being asked to protect and release the property which is the subject matter of the arbitration. Merely because a particular depot is situated outside the territorial jurisdiction of this Court, it does not follow that the Court has no power to protect the subject matter of an arbitration which is otherwise properly before it. The principle stated in *Housing Development and Infrastructure Limited* supports this approach. This does not mean that Respondent Nos.2 to 4 have no rights regarding their own service charges. Their individual claims have to be considered separately. Respondent No.2 says that under the MoU dated 16th July 2026, Respondent No.1 admitted liability of Rs.34,46,986/-, out of which Rs.17,23,493/- was stated to remain payable as on 20th August 2026. Respondent No.2 has stated that it has given No Objection for release of the tanks subject to payment of the outstanding amount. From the material before the Court, this appears to be a claim by Respondent No.2 against Respondent No.1. It is not shown to be a claim arising from any contract between the Petitioner and Respondent No.2. Therefore, Respondent No.2 cannot retain the Petitioner's property merely for securing a debt which Respondent No.1 allegedly owes to Respondent No.2, unless an independent right to retain that property is established. No such right has been shown. The principles stated in *Lonankutty Antony* and *Strides Pharma* are relevant. A claim arising from one transaction cannot be secured by retaining property belonging to another person and connected with another transaction.

44. Respondent No.4's case stands differently. Respondent No.4 states that four containers belonging to the Petitioner are in its custody and claims Rs.57,297.02 up to 10th August 2026 towards terminal and other service charges in respect of those four containers. This claim is stated to relate directly to the four tanks in Respondent No.4's custody. A claim for services performed in respect of the goods being retained is different from a claim relating to an entirely separate transaction. Depending upon the actual facts and nature of the services, Section 170 may give rise to a particular lien over such goods. The Petitioner has offered to secure the amount claimed by Respondent No.4 in its Affidavit. This protects Respondent No.4 at this stage and permits the Petitioner's property to be released. Therefore, Respondent No.4 need not be permitted to continue withholding the four containers merely because it has claimed service charges. The Petitioner shall secure the amount claimed by Respondent No.4, without prejudice to the rights and contentions of Respondent No.4. Whether Respondent No.4 has a statutory lien need not be finally decided in the present Petition.

45. There is some difference in the material regarding the number and location of the containers. Exhibit 'EE' is stated to contain details of 138 containers, with 131 containers at Respondent No.2, 5 at Respondent No.3 and 2 at Respondent No.4. Respondent No.4 states that four containers are in its custody. Respondent No.2 states that 132 tanks are stationed at its depot but that two containers mentioned in Exhibit 'EE', namely KUKU2500296 and SWIU2260102, are not at its depot.

These differences have to be considered before passing an order for delivery. The Court therefore has to proceed on the basis of actual possession disclosed by the respective respondents. It would not be proper to direct a respondent to hand over containers which are not in its custody. The purpose of the order is to protect the Petitioner's property and not to create another dispute about the identity or location of the tanks. Therefore, Respondent No.2 will have to disclose the present whereabouts of KUKU2500296 and SWIU2260102 if they are not at its depot. Any direction can then be given depending upon that disclosure.

46. The decision in *Housing Development and Infrastructure Limited* answers the argument that no order can be passed against Respondent Nos.3 and 4 because they are outside the territorial jurisdiction of this Court. The Court there made it clear that Section 9 is concerned with the subject matter of the arbitration and that the words "in the possession of any party" can cover non-signatories. Where the property is the subject matter of the arbitral dispute, protective relief can be granted in respect of that property. Here, the tanks themselves are the subject matter of the dispute under the 4th March Agreement. I therefore find that the Petition is maintainable against Respondent Nos.2 to 4 for the limited purpose of protecting and obtaining delivery of the Petitioner's identified tank containers which are in their actual custody. This does not make Respondent Nos.2 to 4 liable under the arbitration agreements. The direction is only to regulate and protect the Petitioner's property which is with them.

47. As regards Tank Nos. KUKU2500296 and SWIU2260102, I proceed on the basis of the statement made by Respondent No.2 that these two tanks are not at its depot. Therefore, an immediate direction to Respondent No.2 to hand over those tanks cannot be made at this stage. The proper direction is to disclose where those tanks are and who has their custody or control. After such disclosure, necessary directions for preservation and delivery can be considered.

48. The argument of Respondent No.1 that the Petitioner may not commence arbitration because it is financially distressed cannot justify retention of the tanks. The Arbitration Act provides remedies where security is required for a monetary claim. Respondent No.1 has not shown why these particular tanks, which the Petitioner claims as its own property and which are required to be returned under Clause 3.5.1, should be kept as security for an unadjudicated monetary claim arising under other agreements. Respondent No.1 has offered that all disputes between the parties may be taken before one Sole Arbitrator as a single arbitral reference. This may be possible if both parties agree and if it is permissible. But one party cannot compel the other to combine separate arbitrations merely because it considers all the disputes to be connected. The principle in *Duro Felguera* applies where separate agreements have separate arbitration clauses and independent existence. Respondent No.1 may make such proposal to the Petitioner. If the parties mutually agree and the law permits, appropriate steps can be taken. But such proposal cannot be made a condition for return of the Petitioner's tanks.

49. The other prayers in the original Petition, including the prayers regarding detention charges, disclosure of the complete assets of Respondent No.1, disclosure of the Russian agents and restraint against dealing with assets and bank accounts, are not being pressed in this proceeding after the Petitioner restricted its case to the 4th March Agreement and prayer clause (a). Therefore, no final finding is being recorded on those claims. They can be considered in appropriate proceedings, subject to all objections and defences available to the parties.

50. After considering the entire material, I find that the Petitioner has made out a prima facie case for return of the tank containers under the 4th March Agreement. Respondent No.1 has not shown a sufficient prima facie right to retain those containers for securing its claims arising under separate agreements. The alleged dues of USD 389,576.07, by themselves, do not establish such right. The judgment in *Ram Prasad* requires the factual and contractual basis of the lien to be considered. On the material before the Court, that basis has not been established in favour of Respondent No.1.

51. I find that Respondent Nos.2 to 4 cannot defeat the Section 9 relief merely by saying that there is no arbitration agreement between them and the Petitioner. The containers are the subject matter of the arbitration and are in the physical custody of Respondent Nos.2 to 4. The principle in Housing Development and Infrastructure Limited permits protection of such property even when it is in the possession of a non-signatory. At the same time, the specific service charges claimed by Respondent No.4 in relation to the four containers require protection. Similarly, Respondent No.2's claim against Respondent No.1 under the MoU dated 16th July 2026 cannot be treated as a lien over the Petitioner's property unless an independent right for such retention is shown.

52. The Petition therefore deserves to be allowed to the limited extent of the relief arising under the 4th March Agreement. Respondent Nos.2 to 4 shall release and hand over to the Petitioner or its nominated representative the T-11 tank containers in their respective custody which are identified in Exhibit 'EE', subject to the following condition. In respect of the four containers with Respondent No.4, the Petitioner shall first furnish adequate security for the amount of Rs.57,297.02 claimed by Respondent No.4 towards terminal and other service charges. Such security shall be without prejudice to the rights and contentions of Respondent No.4. Respondent No.2 shall not retain the Petitioner's containers for recovery of the amount claimed by it from Respondent No.1 under the MoU dated 16th July 2026.

53. Respondent No.2 shall disclose on affidavit the present whereabouts of Tank Nos. KUKU2500296 and SWIU2260102 and shall disclose the person or entity having custody or control of those tanks. Respondent No.1 shall cooperate in obtaining the necessary information and in securing delivery of those containers to the Petitioner.

54. The Petitioner shall take appropriate steps for commencement of arbitration arising under the 4th March Agreement in accordance with law. Nothing in this order shall prevent Respondent No.1 from pursuing its monetary claims under the 20th November Agreement, the 8th December Agreement or any other agreement in appropriate proceedings. Similarly, nothing stated in this order shall amount to a final decision on the Petitioner's monetary claims or on any claim of lien which may be established in the appropriate arbitration on the basis of the agreements and evidence.

55. In view of the foregoing discussion, and upon overall assessment of the material record, the following order is passed:

i. The Petition is partly allowed.

ii. The Petitioner is permitted to confine the present Petition to the claims and reliefs arising under the Agency Agreement dated 4th March 2021. The reliefs arising under the Agency Agreement dated 8th December 2020 and the Master Tank Container Lease Agreement dated 20th November 2023 are treated as not pressed in the present Petition. The Petitioner shall be at liberty to take appropriate proceedings in respect of those claims in accordance with law. All contentions and objections of Respondent No.1 in respect thereof are kept open.

iii. Respondent No.1 is not entitled, at this stage, to retain the Petitioner's 138 T-11 ISO tank containers as security for its alleged dues of USD 389,576.07 arising from separate contractual dealings.

iv. Respondent Nos.2 to 4 shall release and hand over to the Petitioner or its duly nominated representative all T-11 tank containers belonging to the Petitioner which are presently in their respective custody and are identified in Exhibit 'EE', subject to the directions contained hereinbelow.

v. Respondent No.2 shall not withhold any of the Petitioner's tank containers for recovery of the amount claimed by Respondent No.2 from Respondent No.1 under the MoU dated 16th July 2026.

vi. Respondent No.4 shall release the four tank containers stated to be in its custody upon the Petitioner furnishing adequate security for the amount of Rs.57,297.02 claimed by Respondent No.4 towards terminal and other service charges. Such security shall be furnished without prejudice to the rights and contentions of Respondent No.4. The question whether Respondent No.4 has any lien shall remain open for determination in appropriate proceedings.

Vii. Respondent No.2 shall disclose on affidavit the present whereabouts of Tank Nos. KUKU2500296 and SWIU2260102 and shall disclose the name and particulars of the person or entity presently having their custody or control. Such affidavit shall be filed within two weeks from the date of this order.

viii. Respondent No.1 shall extend necessary cooperation to the Petitioner for obtaining the information regarding Tank Nos. KUKU2500296 and SWIU2260102 and for securing delivery thereof to the Petitioner.

ix. Respondent Nos.2 to 4 shall not sell, transfer, dispose of, encumber, part with possession of or create any third-party rights in respect of the Petitioner's tank containers presently in their custody.

x. The Petitioner shall take appropriate steps for commencement of arbitration in respect of the disputes arising under the Agency Agreement dated 4th March 2021, in accordance with law.

xi. Nothing contained in this order shall prevent Respondent No.1 from pursuing its monetary claims arising under the Agency Agreement dated 8th December 2020, the Master Tank Container Lease Agreement dated 20th November 2023 or any other agreement, in appropriate proceedings and in accordance with law.

xii. Nothing contained in this order shall be construed as a final adjudication of the Petitioner's monetary claims, the monetary claims of Respondent No.1, or any claim of lien which may be established on the basis of the contractual documents and evidence before the appropriate forum.

Xiii. The remaining prayers in the Petition, including the prayers concerning detention charges, disclosure of the assets of Respondent No.1, disclosure of agents in Russia and restraint upon operation of bank accounts or dealing with assets, are not pressed at this stage and are kept open to be pursued in appropriate proceedings, in accordance with law.

xiv. The Petition stands disposed of in the above terms. There shall be no order as to costs.

56. At this stage, Mr. Pai, learned Advocate for the respondents prayed for stay of this Judgment and Order. However, for the reasons recorded herein above, the request for stay stands rejected.

(AMIT BORKAR, J.)