



ARBITRATION AND CONCILIATION

Unconditional Stay Only in Exceptional Cases: Supreme Court Clarifies Section 36(3)

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PUBLISHED 28 November 2025

Introduction

The Supreme Court of India, in its earlier decision revisited the principles governing the grant of stay on arbitral awards particularly when the award directs payment of money. In *Popular Caterers v. Ameet Mehta & Ors.*^[1], the Court set aside a Bombay High Court order that had granted an **unconditional stay** on the execution of a ₹4-crore arbitral award. Emphasising that such stays are permissible only in **narrow, exceptional situations**, the Court clarified the proper application of **Section 36(3)** of the Arbitration and Conciliation Act, 1996, and reaffirmed that courts must avoid entering into a detailed merits review at the interim stage. This judgment further strengthens India's pro-enforcement arbitration framework and highlights the limited circumstances under which monetary awards may be stayed without security.

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Background of the Dispute

The dispute traces back to a Memorandum of Understanding (MoU) dated 25 May 2017 executed between Popular Caterers, a partnership firm engaged in vegetarian catering services, and Maple Leaf Enterprises LLP along with its promoters. Under the arrangement, Popular Caterers was to be the exclusive provider of catering services for events proposed to be conducted at Tulip Star Hotel, Juhu, Mumbai. As part of the commercial understanding, the caterer agreed to pay an adjustable, interest-free security deposit of ₹8 crore, of which ₹4 crore was paid upfront and duly received by Maple Leaf Enterprises.

However, within days of executing the MoU, the venture ran into unforeseen hurdles. On 8 June 2017, state authorities issued directions prohibiting Tulip Star Hotel from hosting events, effectively paralysing the very purpose of the agreement. This development led to immediate disputes between the parties, and the remaining ₹4 crore deposit was never paid.

With the contractual arrangement rendered unworkable, Popular Caterers invoked arbitration. The Bombay High Court appointed an arbitrator on 11 November 2019, and after hearing the parties, the sole arbitrator passed an award on 28 November 2022 directing the respondents to refund the ₹4 crore deposit with 9% interest from 21 June 2017, along with costs. A corrigendum followed on 19 December 2022.

The respondents challenged the award by filing petitions under Section 34 of the Arbitration and Conciliation Act, 1996, accompanied by applications seeking stay of the award under Section 36(2), (3). The Bombay High Court, through a common order dated 22 January 2025, granted an unconditional stay of the award until disposal of the Section 34 petitions. Popular Caterers then approached the Supreme Court.

Bombay High Court Ruling

The respondents, after challenging the arbitral award under **Section 34** of the Arbitration and Conciliation Act, 1996, sought a stay on its execution by filing interim applications under **Section 36(2) (3)**. The Bombay High Court, by its order dated **22nd January 2025**, granted an **unconditional stay** on the enforcement of the award dated 28th November 2022 (as corrected by the corrigendum).

In granting the stay, the High Court undertook an extensive prima facie examination of the arbitral award, observing that several findings appeared to be “perverse” or flawed. Relying on these preliminary assessments, the High Court concluded that the award warranted being kept in abeyance without requiring any deposit or security from the award debtors. The stay was made operative until the final disposal of the pending Section 34 petitions.

This order particularly the grant of an unconditional stay on a monetary award was challenged by Popular Caterers before the Supreme Court.

Supreme Court's Analysis

The Supreme Court confined its scrutiny to a single question whether the Bombay High Court was justified in granting an unconditional stay on the execution of a monetary arbitral award. After examining the record and hearing both sides, the Court held that the High Court had misdirected itself in law.

First, the Court noted that no allegation of fraud or corruption had been raised by the award debtors. As a result, the second proviso to Section 36(3) which mandates an unconditional stay when an award is prima facie induced by fraud was inapplicable. The High Court could not have relied on this exceptional statutory mechanism.

Second, even under the general principles governing stays of money decrees whether under the CPC or Section 36(3) the Supreme Court reiterated that an unconditional stay is permissible only in truly exceptional circumstances. Drawing from *Lifestyle Equities C.V.* and *Ant Vs. Amazon Technologies Inc*^[2], *Pam Developments Private Limited V. State of West Bengal*^[3], and *Sepco Electric*, the Court reaffirmed that such a stay requires establishing more than a prima facie case; the award must be:

- egregiously perverse,
- patently illegal,
- facially unsustainable, or
- affected by other comparable exceptional infirmities.

No such circumstances were present in the case at hand.

Third, the Court found that the High Court had ventured into an impermissibly detailed merits review at an interim stage. Whether the award was perverse or contained errors was a matter to be fully adjudicated when deciding the Section 34 petitions, not while considering a stay application.

Finally, the Supreme Court emphasized that the High Court failed to consider the protective purpose of Section 36(3) to ensure the award holder is not deprived of the fruits of the award without adequate security. By granting an unconditional stay, the High Court had effectively revived the discredited concept of an “automatic stay,” contrary to the spirit of the 2015 and 2021 amendments.

Accordingly, the Court held that the unconditional stay was legally unsustainable.

Judgment

The Supreme Court set aside the Bombay High Court's order granting an unconditional stay on the arbitral award. It held that the High Court had misapplied Section 36(3) of the Arbitration and Conciliation Act, 1996, and had granted an extraordinary relief without any exceptional circumstances justifying it.

The Court directed the respondents (award debtors) to deposit the principal amount of ₹4 crore with the Prothonotary and Senior Master of the Bombay High Court within eight weeks. Upon deposit, the amount is to be invested in a fixed-deposit account with auto-renewal. The stay on the award will continue only subject to this deposit.

Further, the Supreme Court directed the Bombay High Court to hear and decide the pending Section 34 petitions on their own merits and to endeavour to dispose of them within six months. The Court clarified that no observations made in this decision should influence the adjudication of those petitions.

Significance of the Judgment

The Supreme Court's ruling in *Popular Caterers v. Ameet Mehta & Ors.* is an important contribution to India's arbitration jurisprudence, particularly on the issue of stays of monetary awards under Section 36 of the Arbitration and Conciliation Act, 1996. The judgment is significant in several respects:

1. Reinforces the Limited Scope of Unconditional Stays

The Court firmly reiterates that an unconditional stay on a money award is permissible only in exceptional situations, primarily those involving fraud, corruption, or analogous misconduct. This ensures that the extraordinary remedy is not diluted or granted on routine or subjective assessments.

2. Preserves the Pro-Enforcement Bias of Arbitration Law

By setting aside the unconditional stay, the Court strengthens the **post-2015 legislative intent** to prevent award debtors from frustrating enforcement through procedural delays and frivolous challenges. The decision protects award holders from being deprived of the benefits of the award without security.

3. Restricts Premature Merits Review at Interim Stage

The Court clarified that, while deciding a stay application, High Courts cannot begin an extensive, quasi-final analysis of the arbitral award. Detailed evaluation of perversity or illegality must be reserved for the final hearing of the Section 34 petition, thereby preserving judicial discipline and procedural fairness.

4. Clarifies the Relationship Between Section 36 and CPC Principles

The judgment harmonises Section 36(3) with Order XLI Rule 5 CPC, reaffirming that CPC provisions serve as guiding principles, not rigid mandates. Courts retain discretion but such discretion must be exercised judiciously, especially in cases involving monetary awards.

5. Promotes Timely Disposal of Section 34 Petitions

By directing expedited adjudication within six months, the Court highlights the need for **speedy resolution of challenges**, aligning with India's broader goal of creating an arbitration-friendly environment.

6. Offers Practical Guidance for Future Stay Applications

The judgment provides a clear framework for courts and litigants on when an unconditional stay may be justified, reducing uncertainty and ensuring consistency in future rulings.

Conclusion

The Supreme Court's ruling in *Popular Caterers v. Ameet Mehta & Ors.* strengthens the integrity of arbitral awards by preventing unwarranted, unconditional stays that defeat the purpose of arbitration. It marks an important reaffirmation of the principle that execution of money awards should be stayed only upon deposit or security, except in truly exceptional circumstances such as fraud or corruption.

Author's View

The Supreme Court's judgment rightly reinforces India's pro-enforcement arbitration regime by limiting unconditional stays of monetary awards to truly exceptional circumstances. By correcting the High Court's premature merits review and unwarranted grant of unconditional stay, the Court restores the balance intended by Section 36(3) and the 2015–2021 amendments.

Requiring the award debtors to deposit the principal amount ensures that the award holder is not prejudiced while the Section 34 challenge is pending. The Court's emphasis on expedited disposal of the challenge further reflects a practical appreciation of commercial timelines.

The ruling strengthens arbitral finality, curbs delay tactics, and reaffirms that judicial intervention must enable not frustrate the enforcement of arbitral awards in India.

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[1] 2025 INSC 1354 (ARISING OUT OF SLP(C)NOS.17231-17233 OF 2025)

[2] 2025 INSC 1190

[3] (2019) 8 SCC 112

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