Is there a residual jurisdiction for non-seat courts to grant reliefs in respect of an arbitration? The Singapore High Court in MSA Global LLC (Oman) v Engineering Projects (India) Ltd[1]

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1. It is uncontroversial to say that the seat court has supervisory jurisdiction over an arbitration. But can another, non-seat court, have a residual jurisdiction to grant relief in respect of matters not within the purview of the seat court? That was the issue that the Singapore High Court had to address in the latest instalment of the saga between MSA Global LLC (Oman) (**"MSA"**) and Engineering Projects (India) Ltd (**"EPIL"**) arising from EPIL's unhappiness from the failure of one of the arbitrators in the tribunal failing to disclose his previous relationship with the chairman of MSA.

Background

2. MSA and EPIL had referred their dispute to arbitration to a 3-person panel under the ICC Rules in Singapore. The tribunal made a partial award in favour of MSA. EPIL applied to the Singapore High Court to set aside the partial award (the Setting Aside Application"). In the course of the Setting Aside Application, EPIL applied to add a further ground, that of apparent bias on the part of one of the arbitrators. On 27 March 2025, the application was rejected, and the court found that the argument of apparent bias was hopeless and so was not allowed to be added[2].

3. On 28 March 2025 EPIL filed an application to the Singapore High Court for the court to terminate the arbitrator's mandate pursuant to Article 13 of the Model Law (the "Challenge Application").

4. Whilst the Challenge Application was pending, EPIL commenced proceedings in the High Court of Delhi (the "Delhi Proceedings") seeking *inter alia* an injunction to restrain MSA proceeding with the arbitration whilst the subject arbitrator was on the tribunal, in effect an Anti-Arbitration Injunction or AAI.

5. On 23 May 2025, the Singapore High Court granted an interim Anti-Suit Injunction (ASI) restraining EPIL from continuing with the Delhi Proceedings. Notwithstanding the ASI, EPIL continued with the Delhi Proceedings.

6. On 24 July 2025, the Singapore High Court dismissed the Challenge Application[3].

7. On 25 July 2025, the Delhi High Court delivered its decision granting EPIL the interim AAI against MSA[4].

8. The instant case was for the Singapore High Court to make the ASI against EPIL permanent.

The Decision

9. EPIL accepted that the Singapore High Court was the proper forum to seek remedies under the International Arbitration Act and/or the Model Law, but argued that the Delhi court, despite being a non-seat court, retained residual jurisdiction to grant relief to parties to the extent that they are not within the purview of the Singapore court as the seat court. In pursuing this argument EPIL had to deal with Article 5 of the Model Law which states:" In matters governed by this Law, no court shall intervene except where so provided in this Law".

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[1] [2025] SGHC 199
[2] See *DLS v DLT* [2025] SGHC 61. The report gives a detailed explanation of EPIL's case for apparent bias, the arbitrator's explanation, and the rejection of EPIL's challenge to the arbitrator before the ICC Court, as well as the reasons for the court rejection of EPIL's application.
[3] See *DLS v DLT* [2025] SGHC 139
[4] A copy of the Delhi High Court judgement can be found here MSA Global v. Engineering Projects, Judgment of the Delhi High Court 2025/DHC/6093, 25 July 2025. The decision has drawn much comment, for example see here A Shield of Justice or a Sword Through the Seat? The Delhi High Court's Contentious Anti-Arbitration Injunction | Kluwer Arbitration Blog

10. EPIL argued that Article 5 only limited court intervention "[i]n matters governed by this Law", such that if the Model Law is silent, any court can do anything in relation to an arbitration. Specifically, EPIL contended that the Model Law said nothing about whether non-seat courts like the Delhi courts could injunct the continuance of an arbitration on the basis that the arbitration had become vexatious and oppressive, and so the Delhi courts could do so.

11. This was rejected by the Singapore High Court, when Article 5 states, "*no court* shall intervene", it covers all courts, seat or non-seat.

12. The Singapore High Court found that it was an abuse of process for EPIL to have commenced the Delhi Proceedings: they were a collateral attack on the Singapore court's decisions in that EPIL was raising the same issue of apparent bias before the Delhi courts, which the Singapore court had rejected. The Delhi Proceedings were also an attempt to get another court to decide on a challenge to the arbitrator (on the same ground of apparent bias), when under Art 13 of the Model Law (which applies to the Singapore-seated Arbitration) that function is performed by the Singapore court.

13. EPIL compounded its abuse of process after the interim ASI was granted on 23 May 2025, by continued with the Delhi Proceedings.

14. The Singapore court had rejected EPIL's challenge to the arbitrator on the ground of apparent bias, after the ICC Court had rejected the same. EPIL, however, sought to persuade (and did persuade) the Delhi court to reach the opposite conclusion – at least on an interim basis.

15. The Delhi Proceedings were a collateral attack by EPIL on decisions of the Singapore court and amounted to vexatious or oppressive conduct.

Conclusion

16. This decision is unlikely to be the last step in the saga. The interim AAI issued by the Delhi High Court still has to be made permanent. There is a strong likelihood that there will be further appeals from that decision.

17. Given that the Delhi High Court's injunction does not bind either the Singapore courts, the ICC, or the tribunal, it is likely that the arbitration will continue, if necessary, on an ex parte basis if EPEL refuses to participate. The AAI, assuming it is maintained, will likely only have effect in India in preventing the enforcement of the partial award and any other awards made in the arbitration.

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