2026:DHC:9304

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

\# **CNR No. DLHC010417992026**

\+ O.M.P.(I) (COMM.) 387/2026 & I.A. 24408/2026

RAJADHIRAJ TIRUPANI VINAYAK NATRAJ PVT LTD

.....Petitioner

Through: Mr. Sandeep Bajaj, Ms. Aakansha Nehra, Mr. Mayank Biyani, Ms. Sanjana Srivastava, Mr. Abhinav Aggarwal and Ms. Ishita Sharma, Advocates.

versus

FACOR ALLOYS LIMITED .....Respondent

Through: Mr. Anirudh Wadhwa, Mr. Keshav Gulati and Mr. Vibhu Pahuja, Advocates.

CORAM:
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

% 14.10.2026

1. The present petition has been filed under Section 9(1)(ii)(c) and (e) of the Arbitration and Conciliation Act, 1996[1] seeking, *inter alia*, appointment of a Local Commissioner to inspect the Respondent's plant situated at Shreeramnagar P.O., Garividi, Vizianagaram, Andhra Pradesh – 535101[2], and prepare an inventory of the raw materials, finished goods and other goods belonging to the Petitioner and lying therein[3], along with interim protection in respect of the subject goods.

[1] "Act" hereinafter
[2] "subject premises" hereinafter
[3] "subject goods" hereinafter

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2. Briefly stated, the parties entered into a Conversion Agreement dated 01.08.2021, pursuant to which the Petitioner entrusted manganese ores, Fe-Mn slag and reductants to the Respondent for conversion into Ferro Manganese and Silico Manganese at the Respondent's plant. Subsequently, the disputes arose between the parties.

3. The Petitioner claims that the subject goods continued to belong to it and were lying at the Respondent's plant when disputes arose between the parties.

4. The disputes were ultimately referred to arbitration, culminating in the Final Award dated 31.07.2025, whereby the learned Sole Arbitrator, *inter alia*, recognised the Petitioner's entitlement to the return of its raw materials, finished products and other goods lying at the Respondent's plant and restrained the Respondent from obstructing their removal. The relevant paragraphs are as follows:

> *"a. A declaration that Rajadhiraj is entitled to return of its raw materials, finished products and other goods lying at the said plant of Facor.*
> *b. An order restraining the Respondent from obstructing removal of the raw materials, finished products and other goods of Rajadhiraj lying at the said plant of Facor"*

5. It is further submitted that the Respondent had instituted proceedings bearing OMP(I)(COMM) 394/2025 under Section 9 of the Act in respect of the subject goods, seeking their attachment and consequential sale towards satisfaction of the amounts awarded in their favour. The said proceedings were subsequently withdrawn on

the ground that enforcement proceedings were already pending before the Executing Court, where an order of attachment had been passed in respect of the subject goods.

6. Learned Counsel for the Petitioner submits that, in view of the competing claims concerning the quantity, identification and valuation of the subject goods, and the apprehension that the subject goods may be sold, removed, mixed with other goods or otherwise dealt with, it is necessary to preserve the subject matter and ascertain its present physical condition.

7. It is submitted that the Petitioner had also sought inspection on 14.07.2026 and 13.08.2026, but the same was denied by the Respondent, due to which the Petitioner is not even aware whether the subject goods belonging to it continue to exist at the Respondent's plant or have been disposed of.

8. Issue notice. Mr. Anirudh Wadhwa accepts notice on behalf of the Respondent.

9. Learned Counsel for the Respondent opposes the petition on the ground of maintainability, submitting that enforcement proceedings are already pending before the Executing Court and that the subject goods have been attached in those proceedings.

10. It is further submitted that the relief sought by the Petitioner amounts to indirect enforcement of the arbitral award when enforcement proceedings are already pending before the Executing

Court and the goods have been attached therein and the Petitioner is at liberty to raise its claims and objections before the Executing Court and participate in the pending enforcement proceedings.

11. At this stage, learned Counsel for the Petitioner, on instructions, does not press the other prayers in the petition and confines the relief sought to appointment of a Local Commissioner to visit and inspect the subject premises.

12. This Court has considered the submissions advanced on behalf of the parties.

13. In view of this Court, the objection to the maintainability of the present petition is not sustainable. Admittedly, the arbitral award recognises the Petitioner's entitlement to the return of subject goods lying at the Respondent's plant and restrains the Respondent from obstructing their removal and no enforcement proceedings are pending by the Petitioner.

14. In any case, Section 9(1) of the Act expressly permits a party to seek interim measures of protection after the making of the arbitral award, but before its enforcement in accordance with Section 36 of the Act. The expression '*before it is enforced'* does not preclude a party from seeking appropriate interim protection merely because enforcement proceedings have been initiated. The scope of such relief would, however, depend upon the facts and circumstances of the case and the nature of the protection sought.

15. The aforesaid position finds support in the Full Bench decision of the Madras High Court in ***B.M. Insulation (P) Ltd. v. Vardeep Petro Chemical (P) Ltd.***[4]**,** which relied upon the decision of the Division Bench of this Court in ***Shanghai Electric Group Company Limited v. Reliance Infrastructure Limited***[5]. Accordingly, the objection as to the maintainability of the present petition is rejected.

16. As regards to the limited relief pressed, this Court is of the view that appointment of a Local Commissioner is warranted, as the Petitioner has been denied inspection of the subject goods, despite the arbitral award recognising its entitlement thereto in favour of the Petitioner. Such an exercise, being limited to inspection and preparing inventory of the subject goods, would not amount to enforcement of the arbitral award.

17. Accordingly, considering the substantial quantity of the subject goods and the extent of the subject premises, Ms. Shreya Raman, Advocate (Mob No: 7306739542) and Ms. Diya Agrawal, Advocate (Mob No:9074595987) are appointed as Local Commissioners who shall visit the subject premises and carry out the task as indicated below:

Sr No.	**Names of Local Commissioners**	**Work to be carried out**
1.	Ms. Shreya Raman, Advocate (Mobile No. 7306739542)	Inspection and Inventory of Raw Material and other goods of the

[4] **Arbitration Application No. 374 of 2025 and 628 of 2025, dated 21-1-2026**
[5] **2024 SCC OnLine Del 1606**

		Petitioner lying at the subject premises
2.	Ms. Diya Agrawal, Advocate (Mobile No. 9074595987)	Inspection and Inventory of Finished Goods of the Petitioner lying at the subject premises

18. The Local Commissioners shall also have the following powers:

a. prepare an inventory recording their description, quantity/approximate weight, location, identifying particulars and apparent physical condition, including whether the subject goods are separately identifiable or commingled;
b. undertake photography and videography of the goods and areas inspected;
c. verify the inventory, where necessary, with reference to available weighment records, stock registers and inward/outward movement records;
d. permit atleast one authorised representative and counsel of each party to remain present and require reasonable cooperation from the parties;
e. where necessary, draw and seal representative samples for preservation, subject to further orders of appropriate Court
f. record any shortage, obstruction, commingling or inability to identify the subject goods;
g. seek police assistance, if required, for effective execution of the commission.

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19. The Respondent shall extend all necessary cooperation for execution of the commission.

20. The Local Commissioners shall file a report before this Court along with the inventory, photograph and videography within four weeks from execution of the commission.

21. The initial fee of the two Local Commissioners is fixed at Rs. 2,00,000/- each in addition to other miscellaneous out-of-pocket expenses, which shall be paid in advance. If the assignment require more than one day for completion, an additional fee of Rs. 1,50,000/- per day shall be payable to each Local Commissioner for every additional day required.

22. All the above expenses shall be borne by the Petitioner in the first instance. The Petitioner shall also arrange for photography and videography of the entire inspection and inventory process.

23. The report will be taken on record as and when it is filed.

24. The petition stands disposed of in the aforesaid terms. Pending application(s), if any, also stand disposed of.

25. *Dasti*.

OM PRAKASH SHUKLA, J

OCTOBER 14, 2026/pa