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

% Order reserved on : **03.11.2026**
Order delivered on: **18.11.2026**

CNR No. DLHC010394222026

\+ O.M.P.(I) (COMM.) 354/2026 & I.A. 22929/2026

MR KIMTI LALL JAIN .....Petitioner

versus

SUEZ WATER TECHNOLOGIES AND SOLUTION & ORS.
.....Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Arvind Nigam, Senior Advocate with Mr. Nakul Dewan, Senior Advocate alongwith Mr. Manmeet Singh, Ms. Palak Nagar, Ms. Sadhvi Kumar, and Mr. Namaan Shafi, Advocates.

For the Respondents : Mr. Jayant Mehta, Senior Advocate with Mr.Ganesh Chandru, Mr. Siddharth Agrawal, Mr. Shashwat Dhyani, Ms. Kesang T. Doma, and Mr. Om Shelat, Advocates for R-2 to 4.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R
18.11.2026

TUSHAR RAO GEDELA, J.

1. The present petition has been filed under Section 9(1)(i) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as *"the Act"*) seeking the following prayers:

"a. Pass an order directing Respondent Nos. 3 and 4 to deposit with

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the Registry of this Hon'ble High Court, in an interest-bearing account, all amounts that Respondent Nos. 3 and 4 are/ become entitled to receive in respect of Project Nos. 707, 195, 222 and 323, pursuant to the proceedings pending before this Hon'ble High Court in O.M.P. (COMM) 19/2021, O.M.P. (COMM) 153/2023, O.M.P. (COMM) 235/2022 and O.M.P. (COMM) 368/2020 and amounts in respect of Project No.212 pursuant to proceedings pending before the Ld. District Court, Lucknow so as to secure the entitlements and interest of the Petitioner as on the date of filing of this Petition;

b. In the alternative to prayer (a) above, direct Respondent Nos. 3 and 4 to furnish a bank guarantee from a scheduled commercial bank, in favour of the Registry of this Hon'ble Court, for an amount not less than INR 128,79,98,675 (being the value of the Subject Funds presently deposited with the Registry of this Hon'ble Court and the Ld. District Court, Lucknow inclusive of interest as on 31 July 2026) in respect of Project Nos. 707, 195, 222, 323 pursuant to the proceedings pending before this Hon'ble High Court in O.M.P. (COMM) 19/2021, O.M.P. (COMM) 153/2023, O.M.P. (COMM) 235/2022 and O.M.P. (COMM) 368/2020, and in respect of Project No. 212 pending before the Ld. District Court, Lucknow, with liberty to the Petitioner to apply for enhancement of the said bank guarantee to reflect any further accretion by way of interest or additional recoveries pending disposal of the Section 34 Petition

c. In the meantime, pending deposit of the amounts withdrawn / received by Respondent Nos. 3 and 4 under prayer (a) and (b), pass an order restraining the Respondents from alienating, encumbering, transferring, selling, disposing of, parting with possession of, or creating any third-party right, title or interest of any nature whatsoever in respect of their respective movable and immovable assets, investments, entitlements, and properties of any nature to the extent of INR 156,46,04,632 (Indian Rupees One Hundred Fifty-Six Crores Forty-six Lakhs Four Thousand Six Hundred Thirty-two only) which is the PRM claimed under Claim No.1;

d. Pass an order restraining the Respondent No. 1 and 2 from diluting its interest in Respondent Nos. 3 and 4 till the pendency of the Section 34 Petition;

e. Pass an order directing the Respondents to disclose on oath all properties, investments, assets, receivables, and entitlements (both movable and immovable and, in case of encumbered properties and assets, the extent of encumbrance) as on the date of passing of the Impugned Award and as on the date of filing of this Petition;

f. Pass urgent ex parte interim and ad-interim protective orders in

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favour of the Petitioner in terms of the prayers; and

g. pass such other order and/ or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice."

BRIEF FACTS:

2. The petitioner, Mr. Kimti Lall Jain, and his family members were the promoters and held 100% of the share capital of respondent no.3/Driplex Water Engineering Private Limited, and respondent no.4/Driplex Water Engineering International Private Limited. The petitioner was approached by the Suez Group of France for acquisition of respondent no.3 and 4 through their Indian Group companies, Degremont Private Limited (hereinafter referred to as '*DPL'*) and Suez Environment India Private Limited (hereinafter referred to as *'SEIPL'*) (hereinafter collectively referred to as *'the Acquirers'*). Pursuant to the same, the parties entered into the following agreements (hereinafter collectively referred to as the *'Transaction Documents'*):

a. Share Purchase Agreement dated 04.12.2015, between the Acquirers and the petitioner and Mrs. Nidhi Jain for acquisition of respondent no.3.

b. Share Purchase Agreement dated 04.12.2015, between the Acquirers and Mrs. Asha Jain and Mrs. Nidhi Jain for acquisition of respondent no.4.

c. Share Holder Agreement dated 04.12.2015, between the Acquirers, the petitioner, Mrs. Nidhi Jain and respondent no.3.

d. Share Holder Agreement dated 04.12.2015, between the Acquirers, Mrs. Asha Jain, Mrs. Nidhi Jain and respondent no.4.

e. Framework Agreement dated 04.12.2015 between the Acquirers, the petitioner, Mrs. Nidhi jain, Mrs. Asha Jain and

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respondent nos.3 and 4.

3. As per the Share Purchase Agreements (hereinafter referred to as *'the SPA'*), the transfer of shares was to be done in two tranches, with the first tranche of 76% shares (hereinafter referred to as '*CD-1 Shares'*) to be transferred on 01.03.2016 and the second tranche of 24% shares (hereinafter referred to as '*CD-2 Shares'*) to be transferred on 01.03.2019, *i.e.,* the 'Final Completion Date'. Pertinently, at the time of signing of the Transaction Documents, certain payments with respect to the past contracts of respondent nos.3 and 4 were pending as detailed under Annexure "C" of the SPA. The said payments, described as Past Retention Money (hereinafter referred to as the '*PRM'*) were to be closed by 01.03.2019 and in the event the same was not done by 01.03.2019, the parties were to agree on a suitable mechanism as per Clause 10.6 of the Framework Agreement (hereinafter referred to as *'the FA'*) for the payment of the unrecovered PRM. Pertinently, the pricing mechanism of CD-2 Shares contemplated the PRM in its calculation.

4. The CD-1 Shares were transferred to the acquirers on 01.03.2016 for a total consideration Rs.122,02,82,200/-. The petitioner had been made a director of respondent nos.3 and 4 under an Employment Agreement till 01.03.2019 to, *inter alia,* facilitate collection of the PRM, after which he ceased to be in the employment of respondent nos.3 and 4.

5. On 01.03.2019, the CD-2 shares were transferred to the acquirers and a payment of Rs.68,75,54,198/- was made. However by 01.03.2019, *i.e.,* the Final Completion Date, all the payments pertaining to the PRM had not been recovered, and as such, the parties entered into a Supplementary Framework Agreement on 01.03.2019 (hereinafter

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referred to as *'the SFA'*) as per Clause 10.6 of the FA for the mechanism of recovering and sharing of the remaining PRM as detailed in Schedule III of the SFA.

6. According to Clause 2.3 of the SFA, the petitioner would seek to recover the remaining PRM after issuance of Power of Attorney (hereinafter referred to as *'PoA'*) in favour of the petitioner. The said recovery of PRM was to be done within 49 months, *i.e.,* by 31.03.2023. Further, the SFA mandated the Acquirers to provide the petitioner unrestricted access to records, statutory books and Financial Statements and information of respondent nos.3 and 4. In pursuance of the same, the parties signed a General Agreement on 17.05.2021 (hereinafter referred to as *'the GA'*), wherein the parties agreed that specific PoA for each client/project shall be issued to the petitioner for a period of one year and shall be automatically renewed for another one year. Further renewal was subject to 'mutual agreement' as long as PRM under the SFA was not recovered. The respondents issued a PoA to the petitioner on 01.08.2021 which expired on 31.03.2023 and was never renewed.

7. During the currency of the SFA and the PoA, the petitioner was able to secure favourable arbitral awards in respect of Project Nos.707, 195, 222, 323 and 212 before 31.03.2023, which awards were challenged by the respective third parties under Section 34 of the Act. The petitioner had further sought enforcement of the awards in Project Nos.707 and 323 under Section 36 of the Act. In the said proceedings, the third parties deposited amounts totalling to Rs.38,91,62,075/- as detailed in the table below:

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Project	Client	Awarded Amount (in INR)	Amount deposited in Court (in INR) /Date of Deposit	
323	BHEL	16,41,10,141	15,97,42,552	16.09.2021
707	NTPC	13,91,46,137	15,43,27,611	14.09.2021
195	NLC	13,37,99,219	2,16,40,781	22.05.2023
222	MRPL	17,86,71,413	5,34,51,131	22.06.2022
212	UPRVUNL	7,88,21,709	-	-
Total		69,45,48,619	38,91,62,075	

The petitioner was not able to pursue the said challenges on behalf of respondent nos.3 and 4 in the absence of a valid PoA. Further discussions between the parties regarding the extension of PoA beyond 31.03.2023 were not fruitful and the same was neither extended, nor a new PoA was issued.

8. Disputes arose between the parties regarding the collection of PRM and issuance of PoA and the petitioner invoked arbitration *vide* notice dated 27.11.2023. After the constitution of the learned Arbitral Tribunal, filing of the respective statement of claim, statement of defence and rejoinder, and hearing the parties, the learned Arbitral Tribunal passed the final Award on 18.04.2026, which was corrected by the Memorandum of Corrections on 08.06.2026. The learned Arbitral Tribunal rejected the petitioner's claim nos.1, 2 and 8 while partially allowed claim nos.3, 5, 6 and 7. The petitioner has challenged the Award under Section 34 of the Act in O.M.P. (COMM) 355/2026, seeking the setting aside of the rejection of claim nos.1, 2 and 8 in its entirety and claim nos.6 and 7 partially.

9. In August, 2017 SWEIPL had transferred its shares in respondent nos.3 and 4 to respondent no.1, *i.e.,* Suez Water Technologies and

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Solutions. Respondent no.1 was renamed to Veolia Water Technologies and Solutions, *i.e.,* respondent no.2, however, the parties never sought amendment of the memo of parties.

10. In the present petition, the petitioner is seeking protection of the amounts deposited with the Court by third parties in their respective proceedings under Section 34 and Section 36 of the Act with respect to Project Nos. 323, 707, 195 and 222, during the pendency of O.M.P. (COMM) 355/2026, in the event respondent nos.3 and 4 are successful in the said proceedings.

CONTENTIONS OF THE PETITIONER:

11. Appearing for the petitioner Mr. Arvind K. Nigam, learned senior counsel, at the outset, would submit that the present petition involves a prayer pertaining to preservation of only a portion of the amounts due under claim no.1 of arbitral Award dated 18.04.2026, which has been challenged before this Court in O.M.P. (COMM) 355/2026. Thus, he would restrict his submissions only *qua* the said portion.

12. In so far as the issue as to whether an unsuccessful party before the arbitral proceedings is entitled to invoke the provisions of Section 9 of the Act post the Award is concerned, the same is no more *res integra* according to learned senior counsel,3 having regard to the principles enunciated by the Supreme Court in ***Home Care Retail Marts Pvt. Ltd. vs. Haresh N. Sanghavi and Ors.*** reported in *(2026) SCC OnLine SC 670*. Hence there is no doubt on the maintainability of the present petition.

13. Adumbrating the background facts, learned senior counsel, after having taken the Court through the record, submitted that it would be necessary to understand as to whether the nomenclature “Past Retention

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Money" is an ingredient forming part of the sale consideration of the shares. He would submit that under the SPA dated 04.12.2015, "Past Retention Money CD-2", is expressly defined and forms a component of the CD-2 pricing mechanism. According to learned senior counsel, Clause 3 of the SPA provides that Acquirer Price CD-2 is to be adjusted by PRM CD-2 and the Acquirer Price Per Share CD-2 is calculated by a formula which is expressly stated, according to learned senior counsel, the said formula expressly incorporates the recovered PRM into the Share Price payable by the seller. On the other hand, learned senior counsel would submit that the FA dated 04.12.2015 addresses the converse situation, namely the PRM not recovered by the Final Completion Date. He would submit that Clause 10.6 of the FA records that subsequently recovered PRM is to be shared between the target companies and petitioner in the ratio of 20/80 and payable upon recovery. Read harmoniously, the SPA and FA, according to learned senior counsel, together create a single coherent commercial mechanism that is PRM recovered prior to Final Completion is reflected directly in the CD-2 share price whereas PRM recovered thereafter remains contractually payable to the petitioner through the Agreed Sharing Mechanism. He would submit that this was recorded in the SFA dated 01.03.2019.

14. In consonance with the aforesaid regime as expressed in the various contractual documents executed between the parties, the petitioner pleaded in the arbitration that PRM essentially constituted part of the sale consideration and not consideration for services. He would stoutly contend that the respondents attempted to characterize the said PRM as a mere 'top up' payment, that too for the first time during oral

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arguments before the learned Tribunal, which was contrary to and inconsistent with the pricing provisions contained in the SPA and FA. He would forcefully contend that the learned Arbitral Tribunal clearly agreed with the submissions of the petitioner and held as a finding of fact that the PRM essentially relates to sale consideration and not services. He would substantiate the said argument by contending that once PRM forms part of a binding pricing formula for a share transfer, the PRM cannot be relegated as "top up payment".

15. In addition to the aforesaid, learned counsel also would submit that the target companies were valued and acquired on the basis that the identified PRM receivables remained uncertain as to timing and realisation. In other words, learned senior counsel would contend that had the receivable been treated as fully realisable on the date of the transaction, necessarily, the valuation and purchase price would have been higher.

16. Mr. Nigam, learned senior counsel, next contended that even otherwise on facts, the respondent had failed in observing the timelines stipulated as per Clause 2.3.2 of the SFA which obligated the respondents to issue requisite Power of Attorney (PoAs) in favour of the petitioner with effect from 01.03.2019 for the recovery of PRM. This was envisaged on account of the fact that in terms of Clause 2.2 of the SFA the petitioner's powers to negotiate settlements and pursue arbitrations on behalf of the target companies were withdrawn on 01.03.2019 as the petitioner ceased to hold any shares in the target companies and had stepped down as the Managing Director. According to him, Clause 2.3.1 and 2.3.2 of the SFA required an effective recovery period of 49 months from the date of issuance of the PoAs rather than a

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period curtailed by the respondents' delay in issuing them. In other words, learned senior counsel would contend that though 2.3.1 stipulated a fixed period, the same would, however, be read as subject to Clause 2.3.2, wherein respondents were required to issue PoAs to the petitioner for effective discharge of his obligations under both the agreements.

17. Mr. Nigam, learned senior counsel, stated that in terms of Clause 2.3.2 of the SFA the parties entered into a GA on 17.05.2021 whereunder the respondents were mandatorily obligated to issue PoAs valid for one year which were to be automatically renewed for a further year and thereafter renewed by mutual agreement for as long as the PRM is not recovered. He would submit that in this context the respondents took 29 months till 02.08.2021 to issue any PoA at all and issued PoAs only for 10 of the 18 Schedule III projects. He would further submit that the respondents never renewed the PoAs beyond 31.03.2023, though the terms of the GA carried the validity to atleast 01.08.2023. He would contend that while the learned Arbitral Tribunal found that the PoAs were valid till 01.08.2023 by operation of the GA in para 104 of its Award, the learned Arbitral Tribunal accepted the respondents' argument that the PoAs expired by efflux of time on 31.03.2023. This, according to learned senior counsel, is ex facie contrary and contradictory. Learned senior counsel further contended that the submission of the respondent that issuance of a PoA in 2017 in favour of Mr. D.D. Goyal would be a substitute for the PoA as required under Clauses 2.3.1, 2.3.2 and 2.3.5 of the SFA, is untenable.

18. Mr. Nigam, learned senior counsel would submit that the conclusion of the learned Arbitral Tribunal that recovery of PRM would constitute as "contingent" on the premise that it depended on the

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outcome of pending litigation and subsequent challenges under Section 34 of the Act, is contradictory to the leaned Arbitral Tribunal's own finding that PRM is sale consideration payable for the shares already transferred. Thus, according to him, the conclusion is unsustainable. He would vociferously submit that a contractual entitlement to consideration for a completed transfer of shares does not become a mere contingency merely because the mechanism for its recovery involves legal proceedings. As an example, learned senior counsel would submit that recovery of 65% of the claim no.1 under the *Vivad Se Vishwas II (Contractual Disputes) Scheme* (hereinafter referred to as "*VSV Scheme*") cannot be said to be speculative as the said scheme provides no discretion to the public counter party to accept or reject a claim under Rs.500 crores. In any case, he would submit that, the subject matter of the present petition are four arbitral awards in favour of the target companies and the monies have been deposited in Court.

19. Mr. Nigam, learned senior counsel strongly urged that the contention of the respondent that 31.03.2023 is a cut off date, beyond which the petitioner's right over PRM gets extinguished, is completely untenable and contrary to the contractual regime. He would emphasise that, under the GA, each PoA was renewable as long as the PRM is not recovered. Thus, the condition was tied to the continued non-recovery of PRM and not a fixed date. Therefore, the emphasis that 31.03.2023 is a cut off date beyond which the petitioner would be disentitled for its share in the PRM, is untenable. He pointed out that, though this is central to the basic dispute, the learned Arbitral Tribunal did not render even a single finding on the delay attributable to the respondent in issuing PoAs. Moreover, according to him, the PRM, as argued above,

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constituted one of the ingredients of the sale consideration, thus, could not be eschewed from the share price of the shares.

20. While referring to Clauses 2.3.1 and 2.3.2 in the context of the award, he would contend that the learned Arbitral Tribunal did not appreciate in the correct perspective that both the clauses have to be read not only in conjunction but also harmoniously. In that, while Clause 2.3.1 stipulated a 49 month period for compliance, it is the provisions of Clause 2.3.2 which contemplated issuance of PoAs by the respondent. He would submit that it is a matter of fact that PoAs were issued after a delay of 29 months which should have been necessarily taken note of by the learned Arbitral Tribunal and eschewed from the 49 month period as stipulated in Clause 2.3.1. Learned senior counsel would contend that if so eschewed, it is logical that payments received by the respondents or deposited in Court beyond 31.03.2023 should also enure to the benefit of the petitioner in the ratio contractually decided. This not having been done, learned senior counsel would submit, the impugned award suffers from perversity or illegality which goes to the root of the matter.

21. Learned senior counsel also emphasized that the learned Arbitral Tribunal did not take into consideration the attendant correspondences and negotiations and all the transaction documents and the interjection of COVID during the subsistence of the agreements had effectively prevented any meaningful discussion on extension of the recovery mechanism while simultaneously engaging the petitioner on collateral issues. According to him, the learned Arbitral Tribunal did not examine whether the conditions sought to be imposed by the respondents fundamentally altered the commercial bargain.

22. Learned counsel would submit that in any case, so far as the

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present petition is concerned, the deposits on which interim protection orders are sought pertain to the past projects which got finalized before 31.03.2023 barring Project No.195 where the deposit was made on 26.04.2023 but the award was passed way back on 08.11.2022. In other words, according to him, the right of entitlement of the petitioner had already crystalized. Thus, to the said extent, interim protection orders may be passed.

23. Learned senior counsel next contended that petitioner has a good case on merits in its challenge under Section 34 of the Act to the impugned award and, there are in existence, rare and compelling circumstances under Section 9 of the Act for grant of interim relief. Though this was not argued at length or in detail during the hearing, however, alongwith the written note, the petitioner had stated as under:

a. The learned Arbitral Tribunal has failed to make any finding on which party caused the 29 months delay in issuing PoAs and breached Clause 2.3 of the SFA despite noting the competing contentions.

b. There is internal inconsistency in the finding by the learned Arbitral Tribunal in para 104 of the impugned award that the PoAs remained valid till 01.08.2023 and in para 105 that the arrangement expired on 31.03.2023 by efflux of time.

c. The learned Arbitral Tribunal has unreasonably adopted the respondents' "mutual agreement" construction over the petitioner's, without engaging the anti-otiosity principle applicable to the words "as long as the PRM is not recovered."

d. The learned Arbitral Tribunal has rejected the petitioner's reliance on case laws, including ***Mrs. Chandnee Widya Vati***

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Madden v. Dr. C.L. Katial reported in *(1964) 2 SCR 495* on contingent contracts, in a single unreasoned sentence after the respondents had themselves abandoned the contingency argument at the 08.10.2025 hearing.

e. The learned Arbitral Tribunal has failed to examine the petitioner's VSV Scheme quantification methodology (a minimum 65% recovery on awarded amounts, aggregating Rs.49.75 Crore) before dismissing the claim as speculative.

f. The learned Arbitral Tribunal's is silent on tax/FEMA consequences flowing from its own finding that the PRM is capital sale consideration.

g. There is inconsistency in the learned Arbitral Tribunal Tribunal's finding that the 49 month period in Clause 2.3.1 of the SFA is sacrosanct while the issuance of PoA under Clause 2.3.2 is not sacrosanct.

24. In the context of precarious financial position of the respondent nos.3 and 4, learned senior counsel would rely on the Director's Reports of respondent no.4 for financial year 2022-23 and 2023-24 which disclose the sale of two factories in Haridwar, while the financial statements of respondent no.3 for financial year 2022-23, 2023-24 and 2024-25 show losses of Rs.30.04 Crore, Rs.50.29 Crore and Rs.28.58 Crore respectively. Learned senior counsel contends that additionally, the financial report of respondent no.4 for the financial year 2024-25 shows cash losses of Rs.3.31 Crore and also confirms that respondent no.4 holds no property, plant, equipment or immoveable assets. Learned senior counsel would submit that it is amply clear that respondent nos.3 and 4 are not in the pink of health and there exists a real possibility of

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further corporate restructuring, capital alteration or dilution of the Suez Group's shareholding in respondent nos.3 and 4.

25. Apart from the above, it is submitted that respondent no.1 and 2 are French companies against whom enforcement in India would be difficult. It was emphatically stressed that while on one hand the petitioner has fully performed under the SPAs, the respondents continue to unlawfully withhold the PRM-linked consideration. It is further submitted that the monies which have been already deposited in this Court can be simply kept preserved which would not cause any disruption to the business of the respondent or any irreparable harm.

26. He relies upon the judgement of the Bombay High Court in ***Oil and Natural Gas Corporation Limited vs. Afcons Gunanusa Joint Venture,*** rendered in Comm. Arbitration Petition No.20173/2026 where the Bombay High Court granted post award relief under Section 9 of the Act when the Arbitral Tribunal therein had made a finding of delay against a contractor but refused to give the consequent relief of liquidated damages. Learned senior counsel would contend that in the present case the impugned award has a similar infirmity by making the finding that PRM was in the nature of sale consideration while ignoring the consequential legal corollary that the respondents were bound to facilitate the recovery of the same. He distinguishes the judgement in ***Oil and Natural Gas Corporation Limited vs. Swiber Offshore Construction PTE Limited,*** rendered in Comm. Arbitration Petition No.17832/2026.

CONTENTIONS OF THE RESPONDENT NO.2 TO 4:

27. Appearing for the respondent Mr. Jayant Mehta, learned senior counsel, at the outset, objected to the very maintainability of the present

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petition. He would strongly contend that post the judgement in ***Home Care Retail*** *(supra)* even though an unsuccessful party is recognized to be entitled to file a petition under Section 9 of the Act, post the award, yet the same has to be in "*rare and compelling circumstances*". He would contend that not a single argument has been addressed by the petitioner nor any demonstrable rare and compelling case has been made out at all. In the absence of the only and crucial threshold required to be discharged by the petitioner, the petition fails and ought to be dismissed.

28. In the aforesaid context, learned senior counsel would submit that the petitioner is seeking an interim measure of protection relatable to claim no.1 before the learned Arbitral Tribunal. He would submit that this particular claim has been unambiguously rejected by the learned Arbitral Tribunal. In fact, according to him, the learned Arbitral Tribunal found as a fact that the entitlement to PRM and the sharing mechanism was valid and subsisting only till 31.03.2023, beyond which the said arrangement expired by efflux of time. The learned Arbitral Tribunal also found as a fact that the GA dated 17.05.2021 did not extend or modify the arrangement for recovery of PRM and noted that there was no mutual agreement to issue PoAs beyond 31.03.2023. It also concluded that the claim was based on contingencies and, therefore, and rightly so, could not be granted by the learned Arbitral Tribunal. He would submit that even the argument based on the VSV Scheme was found to be mere speculation on which no order could be passed. In the said light, Mr. Mehta, learned senior counsel would forcefully contend that these are findings of fact and observation of the learned Arbitral Tribunal on interpretation of the contractual documents, which cannot be interfered with by this Court under Section 34 much less under Section 9

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of the Act.

29. From the aforesaid, learned senior counsel would submit that as a consequence the petitioner neither has an adjudicated nor a subsisting contractual right to protect. Even if it is assumed that the petitioner would succeed in its challenge under Section 34 of the Act, and the award is set aside, at best, the petitioner would be entitled only to re-arbitrate the dispute. In other words, according to him, even if the best case of the petitioner is taken at its face value, there is no way that this Court could, either under Section 9 or under Section 34, grant an award of Rs.156 crores to the petitioner, which was the claim no.1. In any case, learned senior counsel would submit that the said monies have been deposited by third parties as a pre-condition of stay in their own petitions under Section 34 of the Act against the awards passed in favour of respondent no.3/DWE, which are not parties before this Court. Thus, prayers (b) and (c) seek security for a money claim that already stands rejected. According to learned senior counsel, this clearly cannot be a rare and a compelling case as contemplated in ***Home Care Retail*** (*supra*).

30. Relying on ***Swiber*** *(supra),* learned senior counsel would contend that a learned Single Judge of the Bombay High Court, in a similar situation, refused post-award relief to an unsuccessful party even in circumstances where the opposite party was in liquidation, holding that a mere apprehension alone cannot create a legal right. The Court is also stated to have observed that if liquidation by itself were treated as sufficient, the higher threshold prescribed by Supreme Court in ***Home Care Retail*** *(supra)* would lose its significance. According to learned senior counsel, there is no rationale or nexus with the security that is

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sought and the amounts that have been deposited in Court by third parties. He would submit that the ratio laid down in ***Swiber*** *(supra)* was in fact upheld in ***Afcons*** *(supra)*.

31. On merits, learned senior counsel would contend that no *prima facie* case is made out. Learned senior counsel would submit that as observed and noted by the learned Arbitral Tribunal, claim no.1 is not only contingent but also speculative. He would submit that none of the PRM Cases have attained finality on the basis whereof Rs.156 crores are claimed under claim no.1. In this regard, he would submit as under:

a. Rs.68,40,26,148/- relates to Project Nos.195, 707, 323 and 222 where the counterparties' petitions under Section 34 of the Act are pending before this Court;

b. Rs.8,14,55,488/- relates to Project No.212, where the award was set aside on 02.08.2024 and no appeal was filed.

c. Rs.79,91,22,996/- relates to Project Nos.216, 202 and 226, where there is no award at all and the petitioner has computed his share on respondent no.3's claim amounts with interest at 15% per annum.

32. Learned senior counsel would submit that a fallacious and a vexatious submission with respect to the dissipation and alleged sale of fixed assets of respondent no.3 and 4 have been urged. He would submit that the petitioner relied on the Director's Report for the years ending 31.03.2023 and 31.03.2024 as also on the losses shown in the financial statements up to the year ending 31.03.2025, however, pertains to a period prior to the passing of the award. He would submit that the petitioners have not placed on record any document post the award demonstrating any dissipation or irreparable harm in the aforesaid

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context.

33. Learned senior counsel further submits that the award in the instant case arises out of an International Commercial Arbitration as respondent no.2 is a company incorporated under the Laws of France. He would submit that the scope of judicial interference in such arbitrations is narrow and is governed by restricted statutory parameters and thus the grounds of patent illegality are not relevant. Relying on ***Swiber*** *(supra)* he would submit that when a challenge is governed by restricted statutory parameters, the Courts must proceed with caution before granting interim protection founded upon submissions directed against the merits of the award.

34. So far as the submission that it was the respondents who delayed the issuance of PoAs for 29 months is concerned, learned senior counsel would contend that the petitioner itself did not disclose the existence or continued use of the PoA executed in the year 2017 and the respondents became aware only upon review of the case files provided by the petitioner's counsel in February, 2024. It was asserted by learned senior counsel that a PoA dated 25.09.2017, issued by the petitioner himself on behalf of respondent no.3 in favour of Mr. D.D. Goyal remained not only valid but was also continuously used to pursue Schedule III PRM Cases throughout the period which the petitioner now falsely describes as one of total incapacity.

35. Learned senior counsel would contend that petitioner's reliance on para 155 of the award is misconceived. He reiterated that para 155 relates only to claim no.7 concerning TDS deduction whereas the present petition is based on unsuccessful claim no.1. He would submit that the learned Arbitral Tribunal's reference to PRM as "capitals of gains" was

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purely in the context of TDS deductibility. In fact, according to him, the learned Arbitral Tribunal accepted the respondent's case that PRM recovery was permissible only till 31.03.2023, that too after a detailed consideration of extensive arguments and documentary evidence of the parties. He would submit that in view of the categorical factual findings based on documentary evidence, no interim measure of protection can at all be passed nor can the petition be held to be maintainable. Thus, he would submit that the petition be dismissed as non-maintainable.

ANALYSIS AND CONCLUSIONS:

36. This Court has heard the extensive arguments of Mr. A.K. Nigam and Mr. Nakul Dewan, learned senior counsel for the petitioner and Mr. Jayant Mehta, learned senior counsel for the respondent, and with their valuable assistance examined the records and considered the judgements relied upon by the parties.

37. Having heard learned senior counsel, it appears that the core issue predicated whereon, the present petition under Section 9 of the Act has been preferred, is the covenants of the SFA dated 01.03.2019. So far as the SPA is concerned, the PRM and PRM CD-2 concluded with the final Acquirer Price per Share (hereinafter referred to as "*the APS*") as on 01.03.2019. It is clear from the records as also the award that the petitioner has received the consideration in respect of CD-1 Shares and CD-2 Shares on or by 01.03.2019. Undeniably, the claim no.1 pertained to the PRM which was not recovered till 01.03.2019. It cannot be disputed by the petitioner, that the execution of the SFA was necessitated on account of only the unrecovered PRM post the Final Completion Date as envisaged in the SPA. The SFA in para 'F' clearly envisages revision of the understanding of the parties only in relation to the PRM. Thus, this

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Court is required to consider the issues pertaining and limited to the PRM not recovered on or by 01.03.2019.

38. The genesis of this PRM, apart from the SPA, is the FA dated 04.12.2015, which was contemporaneously executed alongwith other Transaction Documents. Amongst others, Clause 10.6 governed the procedure and mechanism for recovery and forthwith payment to the petitioner the past retention money that are not recovered until the Final Completion Date under the SPA. The ratio of share of the petitioner and respondents was also specified. The said clause also specified that the Acquirers would provide to the petitioner and his authorised representatives an unrestricted access to past records, statutory books and financial statements of respondent nos.3 and 4. This document is a precursor to the SFA executed on 01.03.2019 which is after the Final Completion Date. Consequently, what was not recovered as PRM till the Final Completion Date, was sought to be revised and continued under the SFA as mutually agreed between the parties.

39. It is not denied that, with respect to the unrecovered PRM, the SFA is the only governing document apart from the GA. The relevant and core provisions of the SFA undeniably are Clauses 2.3.1, 2.3.2 and 2.3.2A. The same are extracted hereunder:

> *"2.3.1. The Parties hereby agree and acknowledge that Mr. Jain shall endeavor to recover the past retention money to be received by either of the Companies whether related to past contracts, receivables on account of any outstanding claims, tax refunds etc., details of which have been more specifically listed in Schedule Ill hereto ("Past Retention Money Book Value"), for a period of 4 (four) years and 1 (one) month commencing from March 1, 2019 ("Term"). SUEZ or the Companies shall pay to Mr. Jain the Past Retention Money in accordance with this Clause 2.3.*
>
> *2.3.2. SUEZ shall and shall ensure that the Companies shall provide Mr. Jain and his authorised representative(s), (i)*

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unrestricted access to past records, statutory books and financial statements of the Companies and assistance, information, for the purposes of recovery of Past Retention Money. Further, each of the Companies shall issue a power of attorney in favour of Mr. Jain and in case of his death/incapacitation to Mr. Manu Jain (son of Mr. Jain), as maybe required for satisfactory closure of the contracts for recovery of Past Retention Money and closure of past contracts as specified in Schedule III.

2.3.2A. The Parties further agree that the recovered Past Retention Money Book Value (minus Permissible Deductions) shall be shared between Mr. Jain and the relevant Company in the ratio of 70:30 respectively (i.e. 70% of the said amount shall be payable to Mr. Jain ("Mr. Jain PRM 1") and 30% of the said amount to be retained by the relevant Company), till expiry of the Term. The Parties further agree that, during the Term, in case Mr. Jain recovers anything over and above the Past Retention Money Book Value ("Past Retention Money Over and Above"), the same shall be shared between Mr. Jain and the relevant Company in the ratio of 80:20 respectively (i.e. 80 % of the said amount shall be payable to Mr. Jain ("Mr. Jain PRM 2") and 20% of the said amount to be retained by the relevant Company).”

40. Clause 2.3.1 empowers the petitioner to recover the PRM in respect of aspects covered under Schedule III of the SFA for a total period of 4 years and 1 month, *i.e.*, 49 months. It also contemplates respondent no.1 or the respondent nos.3 and 4 shall pay to the petitioner the PRM in accordance with Clause 2.3 of SFA. Clause 2.3.2 envisages the responsibilities and duties of respondents to provide requisite documentation etc. for the purposes of recovery of PRM. For such purposes, it contemplates issuance of PoA to the petitioner for closure of past contracts specified in Schedule III. Clause 2.3.2A manifestly provided the calculation and percentage of share of the petitioner and the respondents.

41. The aforesaid clauses leave no doubt that the petitioner was required to make an endeavour to recover the PRM to be received by either respondent nos.3 or 4, whether related to past contracts,

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receivables on account of outstanding claims, tax refunds etc., for a period of four years and one month commencing from 01.03.2019. It was further provided that respondent nos.1 and 2 or respondent nos.3 and 4 would pay to the petitioner, the PRM in accordance with Clause 2.3. As to how the petitioner would proceed and the requirement of respondent nos.1 and 2 to ensure that respondent nos.3 and 4 would provide unrestricted access to past records for the purposes of PRM, was clearly specified in Clause 2.3.2 of the SFA. For the purposes of Clause 2.3.2, respondent nos.3 and 4 were required to issue PoA in favour of the petitioner for the satisfactory closure of the contracts for recovery of PRM, etc. Although both the parties had hotly contested as to whether the 49 months period concluded on 31.03.2023 as per the respondent or continued further for a period of 29 more months on account of lack of timely issuance of PoAs as contended by the petitioner, this Court need not examine or consider the said issue in detail at the moment since the three deposits unambiguously and undoubtedly have been deposited before 31.03.2023. So far as the fourth deposit is concerned, although the deposit is post 31.03.2023, however, according to the petitioner, it was on account of his efforts and exertions completed and concluded prior to 31.03.2023 that the amount was deposited by third party on 22.05.2023, and thus, entitling the petitioner to the contractual ratio as decided between the parties even for this deposit too.

42. In this context it would also be relevant to consider the GA which appears to have been executed pursuant to and in aid of Clause 2.3.2 of the SFA. The clauses of GA reiterate the terms and conditions prescribed by Clause 2.3.2 of the SFA.

43. A cumulative and conjoint reading of the SFA and GA indicates

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that the parties envisaged that once the SPA was concluded with the Final Date of Completion and the balance payment of the remaining Shares (CD-2) to the extent of 24% was also paid, a mechanism to recover the unrecovered PRM, may need to be worked out afresh. It is this unrecovered PRM which appears to have been made subject matter of claim no.1 of the Statement of Claim.

44. Whether the unrecovered PRM formed part of the Sale Consideration of the Shares or not; or whether respondents violated or were in breach of the conditions of clauses of SFA or GA or not; or whether PoAs were not issued in time and with delay, would be a subject matter of the petition under Section 34 of the Act. It is also pertinent to note that the award is an International Commercial Arbitration Award, and this Court may have restrictive powers to examine or interfere with the same.

45. What is to be seen and considered by this Court at this stage is whether the petitioner is entitled to seek any interim protection *qua* the 4 deposits made by third parties in this Court on account of their challenging the arbitral awards under Section 34 of the Act or some proceedings under Section 36 of the Act.

46. It is not disputed that the amounts referred to in the petition are as a result of the efforts, follow up and exertions of the petitioner. The said amounts have been deposited by third parties pursuant to orders passed by this Court either in proceedings under Section 34 initiated by the third parties or under Section 36 initiated by the petitioner. Barring one deposit which was made on 22.05.2023, the remaining three deposits have been made prior to 31.03.2023. This factual position has not been denied by the respondents before this Court. The assertion that these fall

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within PRM, cannot be disputed having regard to the clauses of the SPA, FA, SFA and the GA.

47. Although the respondents contended that these deposits do not form PRM and rather are "top up payments", however there is neither any clause nor any document produced or placed on record to substantiate the said contention. This being only an oral submission, cannot withstand the scrutiny of law having regard to the fact that respondents do not dispute execution of the SPA, the FA, the SFA or the GA. In view of the overwhelming documentary evidence in the form of written agreements, the oral submission is eschewed from consideration. Thus, there is no steam in the said contention which is unpersuasive, and thus, unmerited. The only logical conclusion one can reach after eschewing the aforenoted submission is that the deposits made in this Court by third parties, would form PRM.

48. For clarity it is noted that the petitioner in the present petition has restricted his relief to these four deposits only. To make it abundantly clear, the table depicting the date and amount of deposits and the parties which have made such deposits is extracted hereunder:-

Project	***Client***	***Awarded Amounts on date of Award (in INR)***	***Amount deposited in Court (in INR)/ date of deposit***		***Amount of award with interest upto 31.07.2026 (in INR)***
323	*BHEL*	*16,41,10,141*	*15,97,42,552*	*16.09.2021*	*51,16,24,740*
707	*NTPC*	*13,91,46,137*	*15,43,27,611*	*14.09.2021*	*21,33,24,371*
195	*NLC*	*13,37,99,219*	*2,16,40,781*	*22.05.2023*	*20,10,59,500*
222	*MRPL*	*17,86,71,413*	*5,34,51,131*	*22.06.2022*	*24,13,04,310*

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212	*UPRV UNL*	*7,88,21,709*	*-*	*-*	*12,06,85,753*
Total		***69,45,48,619***	***38,91,62,075***		***1,28,79,98,675***

49. It is altogether another matter as to whether the respondent nos.2 and 3 or the third parties would ultimately win or lose the challenge under Section 34 of the Act laid by the third parties to the Arbitral Awards which have been passed in favour of respondent nos.3 and 4 and claimed by the petitioner to be a result and consequence of his efforts and exertions. At the moment, an ascertainable amount has indeed been deposited by third parties *qua* the very same Arbitral Awards which are stated to be the result of petitioner's efforts. This assertion of the petitioner has not been disputed by the respondents. An amount deposited by the third parties on the orders of this Court in their respective petitions under Section 34 of the Act whether to the extent of 50 % or 75 % of the Arbitral Award, clearly is in pursuance of and as a result of the efforts and exertions of the petitioner. Looked at it in another way, had the respondents filed petitions under Section 36 of the Act for enforcement of the very same Arbitral Awards challenged by the third parties, and pursuant thereto certain deposits had been made by the third parties on or before 31.03.2023, could it be concluded that the petitioner is disentitled from claiming his share of the deposits. In the considered and humble opinion of this Court the petitioner would surely be entitled to his share, given the circumstances.

50. The petitioner relies upon the Director's Report for FY 2022-23 and FY 2023-24 to indicate that respondent no.4 has placed its two factories for sale twice, and respondent no.3's financial statements

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record losses of Rs.30.04 crores for FY 2022-23 and Rs. 50.29 crore for FY 2023-24 and Rs.28.58 crore for FY 2024-25, coupled with the Financial Statement of respondent no.4 for FY 2024-25 confirming that it holds no property, plant, equipment or immovable assets to demonstrate the precarious financial condition of respondent nos.3 and 4. It is clearly apprehended that there exists a real possibility of further deterioration of financial health and restructuring or dilution of Suez Group's shareholding which may impact the claims of the petitioner. The respondents, on the other hand, except to state that no documents post the award have been filed by the petitioner before the Court, have neither disputed the said financial status/description, nor the sanctity of the documents. In the absence of best evidence which could have been produced by respondent nos.3 and 4, the undenied documents have to be considered for their worth. As a consequence, the documents do indicate the precarious financial condition of the respondent nos.3 and 4.

51. In that view of the matter, it is clear that the petitioner has been able to demonstrate a higher threshold of a strong, *prima facie,* case in his favour. Having regard to the undisputed fact that the four deposits, subject matter of the present petition, made in this Court by third parties do constitute PRM, and having regard to the clauses of the SFA read in conjunction with the GA, and the admitted position that the said awards under which such deposits have been made are on account of the efforts and exertions of the petitioner, balance of convenience is tilted in favour of the petitioner. The petitioner is most likely to suffer irreparable injury in case an appropriate interim protection orders are not passed in his favour.

52. Having said that, it is not every case where strong *prima facie* case

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as contemplated in ***Home Care Retail*** *(supra)* is made out, that the unsuccessful party is entitled to an interim protection orders under Section 9 of the Act, but only those which fall within the term "*rare and compelling case*". This position was echoed by this Court in ***Thor Ventures (OPC) Private Limited vs. Nyeq Technologies Private Limited*** reported in *(2026) SCC Online Del 8483*. This Court in ***Thor Ventures*** *(supra)* laid down the following tests predicated on the law laid down in ***Home Care Retail*** *(supra)*:

> *"41. The controversy regarding an unsuccessful party seeking interim protection under the provisions of Section 9 of the Act, post the passing of the arbitral award is no more res integra. The Supreme Court in Home Care retail (supra), speaking through his Lordship Justice Manmohan has eloquently and eruditely postulated various circumstances which may require to be examined by a Court considering a petition under Section 9 of the Act, invoked by an unsuccessful party. That an unsuccessful party to the arbitration proceedings is entitled to invoke Section 9 of the Act, is unambiguous. That the onus of such an unsuccessful party to establish, prima facie, the ingredients of the triple test, is at a higher pedestal, in the post award situation than at the pre award scenario, is manifest. In other words, the tests may have more rigors for the unsuccessful party. The Supreme Court also required the Courts to examine whether vacation of the protection post award would "result in irreversible prejudice", in the sense to leave such a party remediless. The judgment also cautions that grant of protection orders in post award condition in favour of the unsuccessful party can only be considered in "rare and compelling circumstances". That too, when passing of such orders are considered by the Court as would "prevent irreparable prejudice and preserve the efficacy of the challenge proceedings". To make things unambiguous, the relevant paragraphs of Home Care retail (supra) are extracted hereunder:*
>
> > *"49. Even applying the test of purposive interpretation, 'a party' must mean any party to the arbitration agreement. This Court can envisage situations where a party that has lost in arbitration may nonetheless require interim protection. For instance, where an arbitral award has been rendered without proper notice to a party, or where a party is able to prima facie demonstrate that the award has been induced or tainted by fraud or corruption. In such situations,*

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the Court may not only stay the award but also grant interim measures under Section 9 of the Act to balance the equities.Similarly, in certain cases, an unsuccessful party may have obtained interim protection during the arbitral proceedings, such as an order restraining invocation of a bank guarantee. Upon the rendering of the arbitral award, such interim protection ordinarily stands vacated. However, the unsuccessful party may challenge the award under Section 34 of the Act and obtain a stay on the enforcement of the arbitral award under Section 36(3) of the Act. In such circumstances, immediate removal of interim protection, for example, in relation to a bank guarantee, may result in irreversible prejudice to the unsuccessful party whose challenge to the arbitral award is pending adjudication.

50. Further, the Courts are not disabled from granting 'non prejudicial' interim relief in favour of an unsuccessful party in arbitral proceedings, particularly where such relief does not affect the enforceability of the award but merely preserves ancillary rights pending adjudication under Section 34 of the Act as was sought in the case of Wind World (India) Ltd. (supra).

51. Another interesting conundrum may be where a party is partially successful, inasmuch as, part of its claims are allowed but as a consequence of a higher amount of counter-claim being allowed, it is branded as an unsuccessful party in accordance with Dirk India (supra) and is not in a position to prevent the other party from selling its assets after the award has been rendered. It is possible that in Section 34 proceedings, the arbitral award may be modified to the extent that the counter-claim is set aside and severed from the award. However, without interim relief, assets may dissipate rendering final success illusory.

52. Consequently, in rare and compelling cases, it may be necessary to permit the unsuccessful party to invoke Section 9 of the Act to seek continuation of the existing interim protection. This assumes greater significance, as noted earlier, in light of the decision in Gayatri Balasamy (supra) which recognises the Court's power under Section 34 of the Act to modify an arbitral award, including the power to sever 'the "invalid" portion from the "valid" portion of the award'.

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59. Needless to say, the grant of interim relief under Section 9 of the Act will continue to be guided by well-established principles, namely, the existence of a prima facie case, balance of convenience, and likelihood of irreparable harm or injury. This Court, in Essar House (P) Ltd. v. Arcellor Mittal Nippon Steel India Limited, (2022) 20 SCC 178 : (2022) 235 Comp Cas 242, has held as under:

> *"47. Section 9 of the Arbitration Act confers wide power on the Court to pass orders securing the amount in dispute in arbitration, whether before the commencement of the arbitral proceedings, during the arbitral proceedings or at any time after making of the arbitral award, but before its enforcement in accordance with Section 36 of the Arbitration Act. All that the Court is required to see is, whether the applicant for interim measure has a good prima facie case, whether the balance of convenience is in favour of interim relief as prayed for being granted and whether the applicant has approached the court with reasonable expedition.*
>
> *xxx xxx xxx*
>
> *60. Undoubtedly, the threshold for grant of interim relief will be higher in the case of an unsuccessful party in arbitration seeking such relief. In rare and compelling cases, permitting the unsuccessful party to invoke Section 9 of the Act would prevent irreparable prejudice and preserve the efficacy of the challenge proceedings. However, the rights of such a party cannot be curtailed merely on the apprehension of possible misuse of a statutory provision."*

xxx xxx xxx

63. Having noted the above, this Court is now enjoined to examine as to whether the facts which have arisen in the present case would commend themselves as "rare and compelling" so as to pass any interim protection orders in favour of the petitioner. Undoubtedly, the threshold for grant of interim relief is higher in case of an unsuccessful party in the arbitration proceedings. This flows from the judgment in Home Care retail (supra). At the same time, while laying down the aforesaid proposition, the Supreme Court, in Home Care retail (supra), guided the court exercising powers under Section 9 to invoke the said provision to "prevent irreparable prejudice and preserve the efficacy of the challenge proceedings." So much so, that the Supreme Court also laid down

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that the rights of such a party cannot be curtailed merely on the apprehension of possible misuse of a statutory provision. It is these principles which ought to guide a court exercising powers under Section 9 invoked by an unsuccessful party.

64. That the petitioner has instituted a petition under Section 34 of the Act challenging the Arbitral Award dated 26-9-2026 is by itself, not a "rare and compelling" circumstance. That the petitioner has filed the present petition under Section 9 seeking interim directions, too by itself, is also not a "rare and compelling" circumstance. Such action may be initiated by an unsuccessful party under most circumstances and is not a rarity. Thus, what are the rare and compelling circumstances tempered with prevention of irreparable prejudice and preservation of the efficacy of the challenge proceedings, is to be examined.

xxx xxx xxx

67. Reading the facts along with the amendments to SRA, it appears that in case the petitioner is able to demonstrate that the conclusion of LSL as a sham document is based on no evidence and the said document itself is held to be a valid and creditworthy document, it would be able to establish its "readiness and willingness" which is a necessary concomitant of Section 16(c) of the SRA. This is all the more relevant as the discretion which was hereto before available with the Court having been taken away, instead, specific performance having been mandated read with the omission/substitution of erstwhile Section 14(1)(a) SRA and tempered with the analysis made hereinabove, could be a "compelling" circumstance to prevent not only "irreparable prejudice" but also at the same time, "preserve the efficacy of the challenge proceedings" under Section 34 of the Act.

68. Another compelling and rare circumstance appears to be that of the respondent having no other properties/assets other than the two subject properties which, if not preserved, may render the proceedings under Section 34 of the Act redundant and infructuous. As observed above, the mere filing of a petition under Section 34 itself is neither rare nor compelling, however, read with the aforesaid observations and analysis, coupled with the dicta of the Supreme Court, interim orders to ensure preservation of the efficacy of the challenge, in the present piquant facts, may have to be passed."

53. In the present case and to the mind of this Court, no such "*rare or compelling case*" has at all been made out by the petitioner. The

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circumstances observed above in regard to the issues to be decided in the petition under Section 34 of the Act, do not fall within such ambit. The submissions of the petitioner to make out a case for falling within the ambit of a "rare and compelling case" is not extraordinary. The cumulative and conjunctive consideration of the arguments appear to partake the nature of challenge to the arbitral award rather than demonstrating any rare or compelling case. Moreover, to some extent, preservation of deposits may be a good ground, however, efficacy of the challenge under Section 34 of the Act to the arbitral award, is neither diluted nor compromised. The petitioner has already arrayed the Holding Company of respondent nos.3 and 4 as party respondent nos.1 and 2 and therefore, in case it succeeds in its challenge to the arbitral award, the further proceedings or execution etc., can still continue. In the considered opinion of this Court, no such "rare and compelling case" has at all been made out by the petitioner for an *ad interim* injunction of the nature sought.

54. Thus, while this Court holds that the petitioner is indeed entitled to an interim order, however, is unable to grant the same in view of the ratio in ***Home Care Retail Mart*** *(supra)* and ***Thor Ventures*** *(supra)* on the question of not meeting the standard of "rare and compelling case".

55. Resultantly, the interim prayer is denied.

56. Reply if any, be filed by the respondents within 3 weeks. Rejoinder thereto, before the next date of listing.

57. List on 14.12.2026 alongwith O.M.P. (COMM) 355/2026.

TUSHAR RAO GEDELA
(JUDGE)

NOVEMBER 18, 2026/*rl*

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