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

+ **O.M.P.(I) (COMM.) 320/2024**

**HMM CO LTD**

.....Petitioner

Through: Mr. Pavan Narang, Senior Advocate  
with Mr. Sahil Chopra, Mr. Nitin Gupta and Mr.  
Yash Tewari, Advocates.

versus

**RASHTRIYA ISPAT NIGAM LIMITED & ANR. ....Respondents**

Through: Mr. Brijender Chahar, ASG along  
with Mr. Amitesh Mishra, Mrs. Ritwik Sneha, Ms.  
Pooja Chahar, Mr. Karan Chahar and Mr.  
Venkatesh Kaushik, Advocates for R-1.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

**27.05.2025**

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1. This petition is filed by the Petitioner under Section 9 of the Arbitration and Conciliation Act, 1996 ('1996 Act') seeking the following reliefs:-

*“(i) Pass an order directing Respondent No.1 to secure the Petitioner's claim by furnishing security in the form of a cash deposit or an unconditional Bank Guarantee of a nationalized bank in the sum of US\$ 16,64,679.98 (Rs. 139,783,177.921/-) which includes US\$ 1,593,297.89 towards 90% freight + US\$ 30,000 costs + US\$ 41,382.09 being interest on US\$ 1,593,297.89 @ 12% pa from 13 June 2024 until the date hereof alongwith further interest @ 12% pa on US\$ 1,593,297.89 from the date hereof until payment or realization;*

*(ii) In the interim or alternative, if cargo belonging to and/ or assigned to Respondent No. 1 is lying at Gangavaram port, then pass an order of injunction against Respondent No. 1, its servants and/ or*

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*agents and/ or assigns from taking delivery, physical or constructive or moving the cargo lying at the Gangavaram Port to the tune of 6,700 Mts or causing attachment of 6,700 Mts of the cargo lying at Gangavaram Port premises of Respondent No. 2 and/or any other moveable /immoveable assets of Respondent No.1;*

*(iii) Pass an order of injunction against Respondent No. 2 and its servants and/or agents and/or assigns from giving delivery or causing delivery to be given, physical or constructive to Respondent No. 1, its servants and/ or agents and/ or assigns of the cargo to the tune of 6,700 MTs lying at the Gangavaram Port premises of the Respondent No. 2 to be moved from its present position;*

*(iv) Pass an order of attachment of the cargo lying at the Gangavaram Port premises of Respondent No. 2 and/or any other moveable /immoveable assets of Respondent No. 1;*

*(v) Pass an order directing Respondent No. 1 to bear all costs, charges, expenses, and levies of any kind whatsoever in the exercise of the cargo of Respondent No. 1 being utilized as security towards unpaid freight and demurrage, including storage and maintenance;*

*(vi) For ad interim reliefs in terms of prayer (i) to (v) hereinabove.*

*(vii) Grant costs of the present proceedings and of those incidental thereto in favour of the Petitioner and against the Respondent; and*

*(viii) pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice."*

2. From a plain reading of the petition and the reliefs sought therein, it is evident that Petitioner seeks to secure 90% of the freight payable to the Petitioner under Clause 40 of the Charter Party dated 11.03.2024, executed between the Petitioner and Respondent No. 1, the Petitioner being in the capacity of the performing owner of the vessel MV Yasa Falcon, chartered to Respondent No. 1, to carry a cargo of 80,000 metric tons of 10% MOLOO Coking Coal in Bulk from 1 Safe Port RG Tanna, Gladstone, Australia to 1 or 2 Safe Berth(s), 1 Safe Port Visakhapatnam, India. The freight rate as per the Charter Party was USD 23.99 per metric ton.

3. It is the case of the Petitioner that pursuant to terms of Voyage



Charter Party, on 25.03.2024, the vessel arrived at the port of loading i.e., Gladstone, Australia and commenced loading on 06.04.2024 and loaded cargo of 78,780 MT, net quantity being 77,204 MT, whereafter on completion on 07.04.2024, it sailed for the port of Visakhapatnam, for the discharge of the cargo. It is averred that as per Clause 40 of the Charter Party, 90% of the freight was to paid on submission of (i) freight bill; (ii) copy of Owners' Incorporation Certificate; and (iii) Income Tax Registration Number on a letter head by the vessel owners to the charterer. Balance 10% together with demurrage, if any, was payable by Respondent No. 1 within 120 days of completion of discharge. Petitioner states that all relevant documents were submitted and all obligations of the Petitioner were fulfilled, however, no payment was made to the Petitioner, despite repeated requests and reminders. This petition is filed by the Petitioner in this backdrop to secure Petitioner's claim by directing Respondent No. 1 to furnish a security in the form of cash deposit or unconditional Bank Guarantee in the sum of USD 16,64,679.98, which includes USD 1,593,297.89 towards 90% freight as also cost and interest.

4. Mr. Brijender Chahar, learned ASG appearing on behalf of Respondent No. 1, on instructions, submits that in the present petition, Petitioner seeks to secure 90% freight payable under the Charter Party, amounting to USD 16,64,679.98, which stands duly paid to the Petitioner and therefore, nothing further survives in this petition. Insofar as the alleged claims for costs and interest is concerned, these are disputed by Respondent No. 1 and would be subject matter of adjudication, as and when, parties take recourse to arbitral proceedings and this dispute cannot be adjudicated in a petition under Section 9 of 1996 Act.



5. After hearing learned Senior Counsel for the Petitioner and learned ASG for Respondent No. 1, this Court finds merit in the submission that once the entire amount due to the Petitioner towards 90% freight stands disbursed, no further order is required to be passed in the present petition. Payment of costs and interest is a dispute, which can only be adjudicated upon by the Arbitrator, as and when, any party invokes the Arbitration Agreement and the Arbitrator is appointed.

6. Accordingly, this petition is disposed of, making it clear that this Court has not entered into the merits of the surviving disputes between the parties, which are left to be decided by the Arbitrator.

**CCP(O) 28/2025**

7. In light of the order passed above, no further order is required to be passed in the present petition and the same is accordingly disposed of.

**JYOTI SINGH, J**

**MAY 27, 2025/RW**