

ORDER

OCD-5

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/828/2025
RISHI CHEMICAL WORKS PRIVATE LIMITED
VS
ENVIRO CLEANROOM PROJECTS PRIVATE LIMITED

BEFORE
HON'BLE JUSTICE GAURANG KANTH
Date: December 15, 2025.

Appearance:-
Mr. Sarvapriya Mukherjee, Adv.
Mr. Souradeep Banerjee, Adv.
Ms. Moumita Dhar, Adv.
...for petitioner.
Mr. Debanik Banerjee, Adv.
Mr. Krishnendu Bhattacharya, Adv.
Mr. Steven S. Biswas, Adv.
...for respondent.

The Court:- The petitioner has preferred the present application under Section 9 of the Arbitration and Conciliation Act, 1996, seeking immediate appointment of a receiver for carrying out the task specified in prayer (a) of the petition.

It is the case of the petitioner that it is engaged in the manufacture and sale of chemical products of diverse specifications and operates an existing manufacturing unit at Haridwar. With a view to establishing a clean room laboratory and an allied production facility at the said unit, the petitioner intended to engage a contractor for execution of the said works and, in that context, approached the respondent.

Learned counsel for the petitioner submits that, for the aforesaid purpose, the petitioner and the respondent entered into a price quotation and final price agreement dated 17.07.2023, pursuant to which the respondent was required to supply goods and render services strictly in accordance with the terms of the accepted quotation. It was agreed that upon completion of the work, joint measurements would be undertaken to determine the exact quantity of goods supplied and services rendered, on the basis of which the final amount payable would be ascertained.

It is further submitted that there has been considerable delay on the part of the respondent in execution of the work. An aggregate amount of Rs. 1,01,76,808/- was paid by the petitioner to the respondent between 16.05.2023 and 23.10.2024 towards the setting up of the laboratory. Although possession of the laboratory was handed over to the petitioner on 07.05.2025, the work remained incomplete, resulting in substantial losses to the petitioner. The petitioner accepted the handover expressly reserving its right to inspect the facility and to communicate any deficiencies observed to the respondent.

Learned counsel further submits that the petitioner has received a notice from the MSME Arbitration Council and that the proceedings are presently at the stage of conciliation, with no arbitrator having been appointed thus far. It is contended that the present application is maintainable under Section 9 of the Arbitration and Conciliation Act, 1996, and that unless a receiver is appointed, the petitioner would suffer irreparable loss and injury.

Learned counsel for the petitioner has relied upon a judgment rendered by Delhi High Court in the case of ***Prima Developers versus Lords Co-op. Group Housing Society Ltd.***[[FAO(OS) 164/2009]] 2009 (110) DRJ 293 (DB), wherein the Hon'ble Division Bench held that the power under Section 9 of the Arbitration and Conciliation Act, 1996 is intended to protect the subjectmatter of arbitration and to prevent irreparable injury to a party pending adjudication of disputes. It was further held that interim measures, including appointment of a receiver, can be granted even prior to commencement of arbitral proceedings, provided the Court is satisfied that the applicant has established a prima facie case, that the balance of convenience lies in its favour, and that denial of interim protection would result in irreparable loss.

Learned counsel for the respondent states that since the conciliation proceedings are already pending before the MSME Council, the present application is not maintainable. He further states that for the purposes of collecting evidence, the petitioner cannot avail the benefit of an application under Section 9 of the Arbitration and Conciliation Act, 1996.

In support of his submissions, reliance is placed on the judgment of the Hon'ble Supreme Court in ***Silpi Industries v. KSRTC***(in Civil Appeals Nos. 1570-78 of 2021) along with ***Khyaati Engineering v. Prodigy Hydro Power Pvt. Ltd.***, [Civil Appeal nos. 1620-22 of 2021] (2021) 18 Supreme Court Cases 790, wherein it was held that the MSME Act has an overriding effect and that once a dispute is referred to the MSME Facilitation Council, the

procedure prescribed thereunder must be strictly followed, without recourse to parallel remedies.

This Court has heard the submissions advanced by the learned counsel for the parties and has perused the materials on record.

The object and scope of Section 9 of the Arbitration and Conciliation Act, 1996 permit a party to seek interim measures of protection, including measures that facilitate preservation of the subject-matter of the dispute and relevant material, pending arbitral proceedings. In appropriate cases, the provision enables the Court to grant interim relief to ensure that the arbitral process is not rendered ineffective.

Section 9 of the Arbitration and Conciliation Act, 1996 reads as follows:—

- (1) *A party may, before or during arbitral proceedings or at any time after the making of the arbitral award but before it is enforced in accordance with section 36, apply to a court—*
 - (i) *for the appointment of a guardian for a minor or person of unsound mind for the purposes of arbitral proceedings; or*
 - (ii) *for an interim measure of protection in respect of any of the following matters, namely:—*
 - (a) *the preservation, interim custody or sale of any goods which are the subject-matter of the arbitration agreement;*
 - (b) *securing the amount in dispute in the arbitration;*
 - (c) *the detention, preservation or inspection of any property or thing which is the subject matter of the dispute in arbitration, or as to which any question may arise therein and authorising for any of the aforesaid purposes any person to enter upon any land or building in the possession of any party, or authorising any samples to be taken or any observation to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence;*
 - (d) *interim injunction or the appointment of a receiver;*

(e) such other interim measure of protection as may appear to the Court to be just and convenient,

and the Court shall have the same power for making orders as it has for the purpose of, and in relation to, any proceedings before it.....”

Hence in view of this, at this stage, this Court is of the prima facie of the view that appointment of a Special Officer would be appropriate for the limited purpose of preserving the subjectmatter of the dispute pending adjudication. The relief sought is confined to inspection and documentation of the existing status of the premises, the works carried out, and the materials supplied, and cannot be construed as an attempt to collect evidence, as contended by the respondent.

The objection raised on the basis of the decisions in *Silpi Industries (supra)* and *Khyaati Engineering (supra)* does not, in the facts of the present case, preclude the grant of interim relief. The said judgments primarily concern the statutory scheme under Section 18 of the MSME Act and do not rule out the grant of interim protective measures where such relief is necessary to safeguard the subjectmatter of the dispute without impeding the ongoing conciliation process.

On the other hand, the principles enunciated by the Delhi High Court in ***Prima Developers (supra)***, support the grant of limited interim measures to prevent prejudice and to maintain the existing state of affairs pending resolution of disputes.

In these circumstances, this Court is satisfied that the balance of convenience lies in favour of granting the limited relief sought and that denial

thereof may result in prejudice to the petitioner. Accordingly, the relief sought in prayer (a) is granted.

Ms. Mousumi Bhowal, Advocate (Mob. No. 9339697329) is, therefore, appointed as the Special Officer to inspect the premises, take measurements of the services stated to have been rendered by the respondent, prepare inventories of the goods delivered and installed, as well as packed and unpacked materials lying at the laboratory and facility, and to record deficiencies, shortcomings and/or defects, if any, as indicated by the petitioner, in terms of prayer (a) of the petition.

The Special Officer shall be entitled to a remuneration of Rs.75,000/- (Rupees Seventy Five Thousand Only), in addition to travelling and incidental expenses, which shall be paid in advance by the petitioner.

A representative of the petitioner shall accompany and assist the Special Officer in the entire process.

The Officer-in-Charge of the concerned police station shall render all necessary assistance to the Special Officer.

List the matter on 27th January, 2026.

(GAURANG KANTH, J.)