

**HIGH COURT OF CHHATTISGARH AT BILASPUR****ARBA No. 67 of 2025**

R.K Transport Company **versus** M/S/ Bharat Aluminum Company
Limited (BALCO)

Order Sheet

10/10/2025	Mr. Prafull N. Bharat, learned Senior Counsel with Mr. Bhawar Lal Parakh, Mr. Sanjeev Sheshadri, Mr. Nikhil Parakh and Ms. Mitisha Kotecha, Counsel for the Appellant. Mr. Abhishek Sinha, learned Senior Counsel with Mr. Rishabh Garg, Mr. Ghanshyam Patel and Ms. Apoorva Rao, Counsel for the Respondent. Heard on I.A. No.1/2025, application for grant of ad-interim relief. 1. This appeal has been preferred under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act of 1996'),

questioning the order dated 08.09.2025 passed by the Commercial Court, District Judge Level, Raipur, Chhattisgarh in ARB MJC No.17 of 2022 whereby the learned Commercial Court has partly set-aside the arbitral award dated 09.04.2022 passed by the learned Arbitral Tribunal. By order dated 18.09.2025, the appeal has been admitted for final hearing.

2. Mr. Prafull N. Bharat, learned Senior Counsel appearing for the appellant would submit that since the appeal has been admitted for final hearing and the matter is likely to take some time for final hearing and during the pendency of the application filed under Section 34 of the Act of 1996 before the learned Commercial Court, the Commercial Court has passed an order dated 13.07.2022 and stayed the arbitral award at the instance of the respondent herein subject to deposition of 50% of the total arbitral amount subject to furnishing of sufficient security and accordingly, on 05.08.2022, the entire amount of 50% i.e. Rs.25,66,70,050/- has been deposited by the

Respondent – BALCO and the said amount has been withdrawn on furnishing bank guarantee, and said bank guarantee is still in operation upto 28.12.2025 and, therefore, the amount of the Respondent - BALCO is fully secured, thus, the appeal be heard finally. Since, the application for restitution has been filed before the Commercial Court by the Respondent – BALCO, it is prayed that no coercive steps shall be taken against the appellant herein till the final hearing of this appeal.

3. Mr. Abhishek Sinha, learned Senior Counsel appearing for the Respondent vehemently opposed the prayer for grant of interim relief made on behalf of the appellant. He would submit that once the award dated 09.04.2022 has substantially been set-aside by the Commercial Court by impugned order, except for Rs.80,00,000/- (approx.) and, the original arbitral award is not in existence, therefore, the respondent cannot retain the amount so deposited on dated 05.08.2022 and, the application for restitution must continue before the Commercial Court and the respondent is entitled to

	get back the amount of Rs.25,66,70,050/- along with interest. As such, the restitution proceedings be not stayed and the application of grant of stay be rejected. He relied upon the decisions of Hon'ble Supreme Court in the matters of Shree Chamundi Mopeds Ltd. Vs. Church of South India Trust Association CSI Cinod Secretariat, Madras¹ and Bhikchand Vs. Shambai Dhanraj Gugale (Deceased) Through Lrs.² 4. We have heard learned counsel for the parties and considered their rival submissions. 5. Admittedly, the appeal preferred under Section 31A (1)(c) of the Act of 1996 has been admitted for final hearing questioning the order dated 08.09.2025 passed by the Commercial Court. While the arbitral award was passed against the respondent, an application was filed under Section 36(3) of the Act of 1996, wherein 50% of the arbitral amount was directed to be deposited which has already been deposited and the bank guarantee furnished by the appellant herein is
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1 (1992) 3 SCC 1

2 2024 SCC Online SC 929

operational upto 28.12.2025. Undisputedly, the interim order dated 13.07.2022 directing the deposition of 50% of arbitral award has also been subject matter of challenge before the Hon'ble Supreme Court in the matter of **M/s R.K. Transport Company Vs. M/s Bharat Aluminum Company Ltd. (BALCO)** reported in 2025 INSC 438 in which their Lordships held as under:-

“15. Further, we do not wish to interfere with the High Court's direction to stay the execution of pending recovery till the matter is adjudicated on merits, since the same is interim in nature and the appellant has already withdrawn 50% of the arbitral sum that was deposited by the respondent. In this view of the matter, the present appeal is dismissed.”

6. As stated above, the substantive appeal has been admitted for hearing and the appeal is to be heard finally, since the interim order dated 13.07.2022 was operating during the pendency of the application under Section 34 of the Act of 1996 for more than three years up to 08.09.2025 which has been upheld by the Hon'ble Supreme Court as stated above and the

Prakash	Appellant has also furnished a bank guarantee against the said amount which is operational up to 28.12.2025, it would be expedient to direct that till the next date of hearing, no coercive steps shall be taken against the Appellant to recover the amount already paid to the Appellant pursuant to the order of the Commercial Court. 7. Accordingly, I.A. No.1/2025 is allowed. 8. Call for the record of the Arbitral Tribunal as well as record of the Commercial Court expeditiously. 9. Meanwhile, counsel for the appellant is directed to file complete additional paper-book containing the pleadings made before the Arbitral Tribunal as well as the exhibited documents, statements of witness etc. in sequence on or before 07.11.2025. 10. List the matter for final hearing on 10.11.2025. Sd/- (Sanjay K. Agrawal) Judge Sd/- (Radhakishan Agrawal) Judge
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