

**Money Execution No.26 of 2016**

**Order No.28 dated 11-09-2019.**

Both parties file hazira.

Today is fixed for hearing the application filed by the Judgement Debtor dated 25-07-2019.

Heard both sides.

Perused the petition and written objection thereto.

Ld. Advocate appearing on behalf of the Judgement Debtor submitted that this Court having no territorial jurisdiction to execute the decree in respect of the property if to be attached. Therefore, the execution case is not maintainable and the award cannot be enforced U/s 36 of the Arbitration and Conciliation Act, 1906 as amended and prays for rejection of the execution case filed by the decree holder.

Ld. Advocate appearing on behalf of the decree holder submitted that the decree holder contested whereby from the arbitral tribunal on 21-01-2015 thereafter an execution petition has been filed before the Hon'ble High Court, Calcutta where the Hon'ble High Court, Calcutta Mr. Justice Sanjeeb Banerjee on 22-09-2016 passed an order by giving liberty to decree holder to file execution case before the Ld. District Judge, Howrah regarding the balance amount of award. He further submitted that the order was contested as both the parties appeared before the Hon'ble High Court, Calcutta, no appeal has been preferred before any superior court. So, the award passed by the Hon'ble High Court, Calcutta attained finality this court has ample territorial jurisdiction to try the execution case filed by the Decree Holder and prays for rejection of the petition.

I have gone through the order passed by the Hon'ble High Court, Calcutta in GA 596 o 2016 and EC No.597 of 2015 dated 22-09-2016 passed by the Hon'ble Mr. Justice Sanjeeb Banerjee wherein Hon'ble Court has given liberty to institute execution proceeding before the Court indicated for the balance amount due under the arbitral award. Here it is submitted that total award was Rs.6,53,720/- and out of that Rs.1,53,720/- was paid by the Judgement Debtor to the Decree holder

and remaining Rs.5,00,000/- with interest is still due from the judgement debtor.

In such circumstances when the Hon'ble High Court, Calcutta given liberty to the decree holder to proceed in execution for balance claim under arbitral award before the court of the Ld. District Judge, Howrah then this court has ample territorial jurisdiction to try the execution case filed by the decree holder and this court has no other option but to give direction to the Judgement debtor to pay the balance claim of Rs.5,00,000/- to the Decree holder by 30-09-2019 positively.

In view above, the petitioner filed on 25-07-2019 filed by the Judgement debtor is considered and rejected.

To 30-09-2019 for payment and further order.

Dic. & corrected by me

A.D.J, 3<sup>rd</sup> Court, Howrah.

(Amit Chattopadhyay)  
Additional Dist. Judge,  
3rd Court, Howrah