

JO Code No.WB00885

Money EX Case No. 26 of 2016

Order No. 51 dated 13-07-2023

Today is fixed for furnishing affidavit by the JDR.

Decree holder is present through Ld. Counsel.

An adjournment is filed on behalf of the JDR on the ground that CO 445 of 2020 is pending before the Hon'ble Court.

The Ld. Counsel for the DHR is present.

None appears on behalf of the Ld. Counsel for the JDR, in spite of repeated call.

The instant execution case was registered under Section 36 of the Arbitration and Conciliation Act, for an enforcement of an award that was passed on 21-01-2015. In other words, eight and half years have elapsed since the said award was passed. The execution itself was instituted on 19-12-2016. Scrutiny of the case record reveals that on 25-07-2019, the judgement debtor has filed an application, challenging the pecuniary of this court to try the instant execution case. This court vide order dated 11-09-2019 rejected the concerned application contending inter alia that the Hon'ble High Court, Calcutta had given liberty to the decree holder to proceed in execution for balance claim under arbitral award before the Court of Ld. District Judge, Howrah and thus opine that this court has jurisdiction to try the instant execution case. On 02-03-2020, the JDR filed an adjournment petition on the ground that he has preferred a revision against the order dated 11-09-2019 by way of CO No.449 of 2020. Several opportunities were given to the JDR to file stay order in respect of CO No.449 of 2020. On 03-02-2022, the DHR filed an affidavit affirming that he had ascertained from the server that no stay order has been passed by the Hon'ble Court in connection with CO No.449 of 2020 or otherwise. On 25-07-2022, the DHR has yet filed another affidavit stating that no appeal/revision is pending against the order dated 21-01-2015 in arbitration proceedings No. 1000/14 plus E.C. No. 597/2015 by the Hon'ble Court. However, no affidavit has been filed by the DHR, stating that there is no stay order in respect of CO No. 449 of 2020. While the JDR has himself not contended that there is a stay order in this regard, he has still insisted that a CO is pending. The JDR was directed to furnish an affidavit regarding his immovable assets. Since, he has failed to do so, opportunity should be given to the DHR to furnish affidavit regarding immovable property of the JDR along with supporting documents. The DHR is also directed to furnish an affidavit before this court affirming that no stay order has been passed by the Hon'ble Court in respect of Order No.28 dated 11-09-2019, passed by this Court.

Fix 28-07-2023 for proper steps by the DHR.

Dictated & Corrected by me

ADJ

**Additional District Judge,
3rd Court, Howrah.**