

**Present: Smt. Suparna Ray (JO Code:WB00711)**  
**Judge, Commercial Court at Alipore**  
**Misc Case (Arbitration) 15 of 2021**  
**Renumbered as Misc Arb (Com) 23/2021**  
**CNR No. WBSP18-000065-2021**

**Order No.** 39

**Date:** 28.04.2025

**In the matter of:**

An application under Section 36 of the Arbitration and Conciliation Act, 1996 read with Order 21 Rule 11(2) of CPC, 1908.

**AND**

**In the matter of:**

Jaya Kar.

**Vs.**

The Union of India & 03 Ors.

## **Order**

Today is fixed for further hearing and for taking necessary steps by the petitioner.

Award holder files hazira.

None appears on behalf of the award debtors.

It appears that the award holder has filed a fresh execution application and initially prays for attachment of the bank account of the award debtors as delineated in the instant application. Copy of the said application has been served upon the award debtors.

It also appears from the Order dated 21.01.2025 passed by the Hon'ble High Court at Calcutta in connection with C.O. 4099 of 2024 that the Hon'ble Court directed this Court to make all endeavor to dispose of the instant execution proceeding within a period of three months from the date of the passing of the Order dated 21.01.2025. Therefore, inasmuch as there is no any order of stay on the instant proceeding, so in view of the aforesaid direction of the Hon'ble Court this Court proceeds with the instant application.

The primary contention of the Ld. Advocate of award holder is that during a passage of time, the award debtors have been refraining themselves by one or another pretext from paying the awarded sum to the award holder. By the said act of the award debtors, the award holder is not getting the taste of the award as made in her favour.

The dispute between the parties arose from a notice no. CON/G-30/2/CS/12, Sr. Divisional Commercial Manager, South Eastern Railway, Kharagpur whereby the Railway invited tenders for granting licence for running cycle stands at different railway stations for three years. The award holder after due participation of the said tender process obtained a letter of acceptance no. CON/G-30/2/CS/BVA (South) on 14.02.2013 for April 2013 to March 2016.

However, during the continuation of the said contract, several disputes and differences arose between the parties and lastly the award holder compelled to file an application under Section 11 of the Arbitration and Conciliation Act, 1996 and in the said reference the Hon'ble High Court was pleased to appoint arbitrator to adjudicate the dispute arose between the parties. Ld. Arbitrator entered into the said reference and heard the case on several days and lastly passed an Award dated 28<sup>th</sup> January, 2020 in favour of the award holder. The award debtors did not file any application challenging the impugned award under Section 34 of the said Act. As such, after expiry of challenging period of the said Section 34 application, the award holder filed the instant execution proceeding for executing the award impugned under Section 36 of the said 1996 Act read with Order 21 Rule 11(2) of the CPC before the Ld. District Judge Paschim Medinipur which was subsequently transferred to this Court.

After coming to the instant case before this Court, it is discerned that the award debtors has been sitting tight and by any how there have been intending to drag the proceeding. Such conduct of the award debtors can easily be found from after passing the Order dated 28.02.2022 whereby this Court directed the award debtors to pay awarded sum to the award holder within 10 days. That direction till date has not been adhered by the award debtors.

It is pertinent to mention here that in the said Order dated 28.02.2022, this Court stated that if the direction made in the said order is not obeyed by the award debtors, then the award impugned will be executed in accordance with law.

However, the award holder has preferred the C.O. as aforesaid before the Hon'ble High Court at Calcutta wherein the Hon'ble directed this court to dispose of the matter expeditiously.

In that aspect, the award holder files the fresh execution petition stating one of a bank account of the award debtors for attaching the same due to realization of the awarded money.

It appears from the award in context that the said award is a money award whereby the Ld. Arbitral Tribunal was pleased to award a total sum of Rs. 30,00,00/- with pre-interest of 10% and further 12% post-interest thereto along with costs. As per the instant application filed by the award holder today, till date there is a due of Rs. 74,98,233/- which is to be paid by the award debtors to the award holder. In the instant application, the award holder has also disclosed an Account being A/C No. 11041344363-GE (AF), Kalaikonda having IFSC SBIN0003332 of the South Eastern Railway, Kharagpur, which may be a significant account whereby the awarded sum may be adjusted so as to execute the award impugned in favour of the award holder.

However, as the aforesaid account of the award debtors whether has any amount or not, which needs to be determined first before attaching the same. It can also be happened that there is no money and even there is a huge quantity of money which is more than the award sum in question.

Hence, this Court appoints Mr. Sankar Sen, Ld. Advocate of the Alipore Judges Court (Mob. No. 7890765025) and Mr. Anirban Das, Ld. Advocate of Alipore Judges Court (Mob No. 9874516269) as Joint Receivers to make a visit to the aforesaid branch (Account being A/C No. 11041344363-GE (AF), Kalaikonda having IFSC SBIN0003332 of the South Eastern Railway,

Kharagpur) and files a comprehensive report as regards the present status of the said account.

For the aforesaid work, award holder is directed to pay a sum of Rs. 25,000/- (twenty five thousand only) to each of the Ld. Receivers as their initial remuneration and as such, file the money receipt to that effect at once. Thereafter, writ will be issued.

The award holder is further directed to make necessary arrangements for visitation of the Ld. Receivers to the aforesaid branch of SBI.

The award holder is further directed to communicate the instant order to the Ld. Joint Receivers forthwith.

Fix the matter on 05.05.2025 at 11:00 a.m. for filing money receipt by the award holder.

Parties to act on the basis of the downloaded copy of this Order.

Dictated and corrected by me

Sd/-

Judge, Commercial Court at Alipore,  
For South 24 Parganas, Purba Midnapore,  
Paschim Midnapore & Jhargram.

Sd/-

Judge, Commercial Court at Alipore,  
For South 24 Parganas, Purba Midnapore,  
Paschim Midnapore & Jhargram.

**Later:**

At 12:30 p.m. award debtors file hazira.

Let the same be kept with the record.

Dictated and corrected by me

Sd/-

Judge, Commercial Court at Alipore,  
For South 24 Parganas, Purba Midnapore,  
Paschim Midnapore & Jhargram.

Sd/-

Judge, Commercial Court at Alipore,  
For South 24 Parganas, Purba Midnapore,  
Paschim Midnapore & Jhargram.