

Present: Smt Suparna Ray (JO Code: WB00711)
Judge, Commercial Court at Alipore
Arb. Execution Case No. 11 of 2023
Renumbered as Misc Ex (Com) 41 of 2023
CNR no. WBSP18-000077-2023

Order No. 18
12.12.2024

In the matter of:

An application under Order
21 Rule 11 read with
Section 151 of CPC, 1908.

And

In the matter of:

A.K. Enterprise Pvt. Ltd.

Vs.

SERI Infrastructure
Finance Ltd.

ORDER

Today is fixed for hearing of the execution case.

Both sides file their respective haziras.

Now, the record is taken up for hearing.

Ld. Counsel for the award holder submits before this Court that the award debtor filed an application being I.A. No. 01 of 2023 resorting to Section 47 of the Code of Civil Procedure, 1908. The said application was heard out and disposed of dismissing the same by this Court *vide* the Order dated 20.05.2024. Therefore, there is no any impediment to proceed with the instant execution case. So, he prays for an order appointing receiver in respect of prayers as stated in the instant execution petition.

Per contra, Ld. Counsel appearing for the award debtor submits that the award holder preferred an appeal against the aforesaid Order dated

20.05.2024, whereas on query made from the bar, Ld. Counsel cannot show any document regarding stay on the instant proceeding.

Ld. Counsel for the award holder also submits that if there is no specific stay on the instant proceeding, an execution proceeding should not be stalled on such mere ground. Therefore, he reiterates for passing an order appointing receiver to the instant case.

Considering above, this Court is on the side of the submission advanced by the Ld. Counsel for the award holder that if there is no any order of stay from the Hon'ble Court, there should not be any cumbersome to proceed an execution proceeding. It is also pertinent to mention here that no application under Section 34 of the Arbitration and Conciliation Act, 1996 has been filed by the award debtor for setting aside the impugned award.

Hence, for the ends of justice, this Court directs the award debtor to be restrained from operating the said bank account being Account No. 00020210004661 maintained with UCO Bank, having its address at India Exchange Place Branch, having its address at No. 2 Ground Floor, India Exchange Place, BBD Bagh, Kolkata 700 001 without first leaving apart therein, a sum of Rs. 1,01,10,430/- till the disposal of the instant application. Furthermore, this Court appoints Mr. Sankar Sen, (Mob No. 7890765025), Ld. Advocate of Alipore Judges Court and Mr. Anirban Das, (Mob: 9874516269) Ld. Advocate of the Alipore Judges Court as Joint Receivers to make an inventory of the furniture, fixtures, movable and assets lying and situated at the property mentioned in the Schedule of the instant application and file a comprehensive report to that effect before this Court.

Award holder is directed to pay an initial sum of Rs. 20,000/- (twenty thousand only) to each of the receivers as per their remuneration at once and file a money receipt to that effect on the next date as fixed hereunder. After that, the writ will be issued.

Award holder is directed to bear all expenses regarding travels, stenographer/typist and clerk of both the receivers as per the bill(s) to be raised by them separately.

Fix the matter on 17th December, 2024 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 Mednipur,
Paschim Mednipur & Jhargram

Sd/-
Judge, Commercial Court at Alipore,
For South 24 Parganas, Purba Mednipur,
Paschim Mednipur & Jhargram