

Present: Smt. Suparna Ray (JO Code:WB00711)
Judge, Commercial Court at Alipore
Misc Execution (Com) 64 of 2024
CNR no. WBSP18-000127-2024

Order No. 10
22.04.2025

In the matter of:
An application under
Order XXI Rule 11 read
with Section 151 of CPC,
1908.

And

In the matter of:
S.K. SAMANTA & CO.
PRIVATE LIMITED.

Vs.

DAMODAR VALLEY
CORPORATION.

O R D E R E D

Today is fixed for further order.

Both parties filed their respective haziras through their respective Ld. Advocates.

Ld Advocates of both sides are present. Heard Ld Advocates of both sides. Perused the material on record .

*It appears from the record that Award Debtor filed an application along with a copies of order dated 8th January , 2025 and 20th February, 2025 in AP-Com/961/2024 passed by the Hon'ble Court at Calcutta which was registered as **IA no. 02/2025** on 28.02.2025.*

From the order dated 08.01.2025 passed by the Hon'ble Court at Calcutt in AP-COM/961/2024, it appears that the Hon'ble Court was pleased to observe as under:-

***“..There shall be an unconditional stay of operation for a period of four weeks from date. The petitioner will secure the sum of Rs.43,83,39,344/-. 50% of the said amount shall be secured in cash and the remaining 50% will be secured by way of bank guarantee, to the satisfaction of the learned Registrar, Original Side, High Court at Calcutta. The said bank guarantee shall be renewed from time to time. The cash deposit shall also be made before the learned Registrar, Original Side, High Court at Calcutta.*”**

Upon compliance of this order, the interim order shall continue till the disposal of the application under Section 34 of the Arbitration and Conciliation Act, 1996. In case of default, the stay shall stand automatically vacated and the respondent/award holder may proceed with the execution case...

In order dated 25.02.25 passed by the Hon'ble Court at Calcutta in AP-COM/961/2024, the Hon'ble Court was pleased to observe as under:-

"...The Court is informed that the cash security was duly deposited. Intimation of such deposit was also sent to the award-holder. The award-holder has approached this Court with this application on the ground that, being a contractor engaged in several works which involves huge investment of both financial and infrastructural resources, the cash will enable the award holder to run its business smoothly. It has been further averred that, the Hon'ble Apex Court as also this Court have under similar circumstances permitted withdrawal of such cash security upon the award-holder furnishing a counter bank guarantee of the same amount. This Court is of the view that the award-holder has satisfied the Court with regard to the need to enjoy the fruits of the award upon furnishing security to the Court. The application for setting aside the award is not likely to be disposed of soon and as such the prayer appears to be reasonable.

Under such circumstances, GA-COM 1 of 2025 is allowed, permitting the award-holder to withdraw the sum of Rs.21,91,69,672/- by furnishing counter guarantee of like amount, with the Registrar, Original Side, High Court at Calcutta in accordance with the usual procedure, to the satisfaction of the Registrar, Original Side.."

Ld Advocate appearing on behalf of the Award Debtor submitted that they have complied the direction of the Hon'ble High Court at Calcutta and submitted that upon compliance of this order the interim order shall

continue till the disposal of the application under Section 34 of the Arbitration and Conciliation Act,1996.

Heard Ld Advocate appearing on behalf of the Award Holder.Ld Advocate submitted that the order/direction of the Hon'ble Cour has duly been complied with .

Hence , the compliance of the order of the Hon'ble Court the interim order shall continue till the disposal of the application under Section 34 of the Arbitration and Conciliation Act, 1996.

*Fix **30.06.2025 at 10:45 a.m** for further order.*

The petition being I.A .No.02/2025 , is thus disposed off.

Parties to act on the basis of the downloaded copy of this order from Website /Ecourts App.

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*