



\$~8

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

EX.P. 131/2015 & EX.APPL.(OS) 643/2015 & EX.APPL.(OS)
1012/2015

ROYAL CONSTRUCTION COMPANY PVT. LTD.

..... Decree Holder

Through Mr. J.P. Sengh, Sr. Adv. with Dr.
Sarvam Ritam Khare, Ms. Meena
Sehravat, Ms. Shweta Chaurasia, Mr.
Akash Shukla, Ms. Shashi Pratap and
Ms. Manisha Mehta, Advs.

versus

NATIONAL PROJECTS CONSTRUCTION CORPORATION LTD.
(NPCC)

..... Judgement Debtor

Through Mr. Dhruv Mehta, Sr. Adv. with Mr.
Rajat Arora and Ms. Vishalakshi
Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

%

26.07.2019

1. The short point, at the moment, which arises for consideration in the captioned execution petition is in respect of release of a sum of Rs.1,26,32,320/- alongwith proportionate interest sought for by the decree holder.

1.1 To be noted, the aforementioned amount was deposited by the judgment debtor pursuant to the order dated 12.9.2017.

2. A perusal of the order dated 12.9.2017 would show that at that point in time the Court had directed the judgment debtor to deposit

EX.P. 131/2015

page 1 of 5



the money with the Registrar General of this Court as there was an *inter se* dispute obtaining between Mr. Moolchand Jain and Mr. Ashok Kumar Gabba as to who between them would represent the decree holder. Both persons claim to be directors/shareholders in the decree holder.

3. The record also shows that it is not disputed by the counsel for the parties that at the relevant point in time, the persons who claimed the right to run and manage the decree holder company were two persons i.e. Mr. Moolchand Jain and Mr. Ashok Kumar Gabba.

4. The record further discloses that Mr. Ashok Kumar Gabba had independently filed an execution petition which was numbered as Ex.Pet.No.192/2015. This execution petition was, however, dismissed as withdrawn on 4.7.2018.

5. I am also informed by Mr. J.P. Sengh, learned senior counsel, who appears for the decree holder that Mr. Ashok Kumar Gabba filed a suit i.e. CS 1840/2016 titled *Ashok Kumar Gabba and Anr. vs. Moolchand and Ors.* This suit was filed, I am told, in the district court at Karkardooma, Delhi. Notably, this aspect of the matter has been referred to in the order dated 4.7.2018 passed in EX. PET. No.192/2015.

6. Mr. Sengh, thus, claims that in view of aforesaid development, the sum of Rs.1,26,32,320/- alongwith proportionate interest should be released to the decree holder.

7. On the other hand, Mr. Mehta, learned Senior Advocate, who appears for the judgment debtor has, *inter alia*, submitted that the EX.P. 131/2015



judgment debtor had filed a suit for setting aside the subject award *qua* which the instant enforcement petition has been filed. This suit, however, concededly, was dismissed in *limine* by the learned Single Judge.

8. Aggrieved by the dismissal of the suit, the judgment debtor has preferred an appeal. The appeal is numbered as RFA(OS)(COMM.) 24/2017. Mr. Mehta, has placed before me a copy of the order dated 18.7.2019 passed in the said appeal by the Division Bench which discloses that the appeal has been admitted and the interim order passed in the very same appeal on 17.7.2018, has been modified.

9. The order passed by the Division Bench on 18.7.2019 reads as follows:

“Admit.

The interim order dated 17.07.2018 is modified to the extent that any amount deposited would be released subject to the decision of the learned Single Judge after hearing the parties.”

10. Mr. Sengh, thus, prayed that it is now for this Court to pass an appropriate direction with regard to the release of the aforementioned amount.

11. Mr. Mehta says that since there is a possibility of the judgment debtor ultimately succeeding in its action if this Court were to be inclined to release the money, its interest should be secured.



12. Mr. Sengh on the other hand says that the decree holder has succeeded in having the award sustained right up to the Supreme Court and that as a matter of fact further amounts are due to the decree holder.

13. There are, in fact, two other proceedings pending between the parties with regard to the possibility of further amounts being paid by the judgment debtor.

14. In this behalf, my attention has been drawn to Civil Appeal No.1991/2019 filed in the Supreme Court by the judgment debtor and EFA(OS) No.17/2018 once again filed by the judgment debtor.

15. In the matter pending in the Supreme Court, the issue is with regard to the date on which the conversion rate should become applicable.

16. Insofar as the EFA(OS) No.17/2018 is concerned, it relates to the manner in which amounts deposited by the judgment debtor towards satisfaction of the subject award/decreed are to be appropriated.

17. In view of the above, I had put to Mr. Sengh as to whether the decree holder would be in a position to furnish a security. Mr. Abhishek Jain and Mr. Rishab Jain, the two directors of the decree holder, who are present in Court, say that they will be in a position to furnish an unencumbered security.

18. The directors of the decree holder submit that they will provide details of unencumbered personal property which they will offer as

EX.P. 131/2015

page 4 of 5



security for release of the aforementioned amount plus the accrued interest.

19. Let an affidavit in that behalf be filed within one week from today.

20. The affidavit will be accompanied by self-attested photocopies of the title deeds concerning the immovable property(ies) which are proposed to be offered as security.

21. Renotify the matter on 19.8.2019.

RAJIV SHAKDHER, J

JULY 26, 2019

rb

EX.P. 131/2015

page 5 of 5