

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. IA/ 695 OF 2022

IN

EXECUTION APPLICATION NO. 4614 OF 2022

IN

ARBITRATION CASE NO. AXIS/ARB/LOT-40/5043

Axis Bank(formerly known as UTI Bank Ltd) .. Applicant

Vs.

Twenty First Centure Wire Rods Ltd. .. Respondent

Mr. Sanjiv Sawant a/w Ms. Bijal Gogri i/b O M Gujar Law Chambers for the
Claimant

CORAM:- B. P. COLABAWALLA,J.

DATE :- SEPTEMBER 20, 2022.

P. C.:

1. The above Execution Application is filed seeking the following reliefs:

“(a) That the Respondent be directed to deposit decretal amount of a sum of Rs. 2,68,067/- with further interest on Rs. 2,68,067/- @ 18% p.a. from 28.12.2018 till payment and / or realization thereof;

- (b) *That the Respondent above named be required by an order of this Hon'ble Court to file their Affidavit stating particulars of their properties etc., as provided under Order 21 Rule 41 of the Code of Civil Procedure, 1908.*
- (c) *That the Respondent be detained in civil prison as per Order 21 Rule 41 Sub-rule 3 of the Code of Civil Procedure for non-compliance of the order passed by this Hon'ble Court in terms of prayer clause (b) hereinabove;*
- (d) *That the Respondent be directed to disclose their means on affidavit for satisfying the decree of the Applicant under execution as per Section 51 of the Code of Civil Procedure;*
- (e) *That pending the hearing and final disposal of the Interim Application the order of injunction restraining the Respondent their servants and agents or any persons claiming through them from transferring and / or creating any third party rights on the properties disclosed by the Respondent on affidavit as prayed in the prayer clause (b) above;*
- (f) *Pending the hearing and final disposal of this Interim Application the Court Receiver High Court Mumbai be appointed as a Receiver on the properties disclosed by the Respondent as prayed for in prayer clause (b) above;*
- (g) *That the Respondent be arrested and detained in civil prison as per the provisions of the section 51 of the Code of Civil Procedure;*
- (h) *This Hon'ble Court be pleased to issue precept under section 46 of the Code of Civil Procedure 1908 attaching the properties belonging to Respondent and disclosed by the Respondent under Order XXI Rule 41 of Code of Civil Procedure and which are not within the jurisdiction of this*

Hon'ble Court.

- (i) The properties and salary of the Respondent be attached and the Applicant be allowed to recover their dues from the same by issuing Warrant for Sale under Order XXI Rule 64 of the Code of Civil Procedure 1908 thereof;*
- (j) The Respondent be arrested and detained in the civil prison after issuing show cause notice as per the provisions of Order XXI rule 37 as the decree for payment of money of plaintiff is not satisfied by the Respondent;*
- (k) The judgment Debtors Respondent be arrested by issuing a Warrant for arrest as per the provision of Order XXI Rule 37 Sub-Rule 2 of the Code of Civil Procedure;*
- (l) The judgment debtor be arrested and shall be brought before the Hon'ble Court as per the Order 21 Rule 38 of the Code of Civil Procedure;"*

2. The learned counsel appearing on behalf of the Applicant brought to my attention the affidavit of service dated 2nd July 2022 in which it is stated that service has been duly completed and accepted by the Respondent on both addresses, as more particularly set out in the said affidavit. After perusing the affidavit, I am satisfied that the Respondent is duly served.

3. In the above Execution Application, an Arbitral Award dated 20th June 2019 is sought to be executed under which the Respondent was directed to pay to the Applicant as sum of Rs.

2,68,067/- together with further interest @18% p.a. from 28th December 2018 till payment and / or realization. At the ad-interim stage, the learned counsel appearing on behalf of the Applicant presses the above application in terms of prayer clause (b) reproduced above.

4. Having heard the learned counsel appearing on behalf of the Applicant, I do not see any impediment in granting the aforesaid relief especially considering that there is not stay of the Arbitral Award which is sought to be executed in the present proceedings.

5. In these circumstances, there will be ad-interim relief in terms of prayer clause (b) reproduced above. The disclosure affidavit shall be filed by the Respondent within a period of four weeks from today. The advocates for the Applicant are directed to serve a copy of this order by hand delivery on the Respondent.

6. Stand over to 20th October, 2022.

7. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(B. P. COLABAWALLA, J.)