



M/s Biogenetic Drugs Pvt. Ltd. Versus M/s Kerala Medical Services Corporation Limited

Execution Petition No.14 of 2022

23.11.2023 Present: Ms. Madhurika Sekhon, Advocate, for the petitioner/Decree-Holder.

The Decree-Holder herein, namely, M/s Biogenetic Drugs Pvt. Ltd. Khasra No.195/2, Village Jharmajri, Baddi, District Solan, (H.P.) who was carrying on a manufacturing unit of pharmaceuticals, medicinal, chemical and botanical products had entered into a dispute with the Respondent-Judgment Debtor herein i.e. Kerala Medical Services Corporation Limited, Department and Health and Family Welfare, Government of Kerala, Thycaud, P.O. Thiruvananthapuram-14, Kerala.

2. The dispute was referred arbitration. During the course of arbitral proceedings, the Respondent-Judgment Debtor, referred to above, chose not to appear and was proceeded *ex parte*. The arbitral proceedings in Arbitration Claim No.175 of 2021, titled as M/s Biogenetic Drugs Pvt. Ltd. Versus M/s Kerala Medical Services Corporation Limited, led to a passing of an Award on 14.06.2022. The operative part of the Award reads as under:-



“10. With the result the claimant is held entitled to be awarded:

- a) a sum of Rs.1,70,63,385/- (being the principal amount of Rs.58,73,939/-, plus, a sum of Rs.1,11,89,446/- on account of compound interest as, so calculated up to 31.01.2022 in the calculation sheet by the CA in his calculation sheet, Annexure C-9, which shall form part of the award.);
- b) Costs, which include the deposited arbitration fee of Rs.50,000/-, plus, Rs.500/- in lieu of the stamp duty supplied by the claimant; and
- c) Future interest at the same rate as calculated in the calculation sheet, prepared under section 16 of the Act of 2006 from the date of filing of statement of claim, till the realization of awarded amount.

11. The original award be placed on the record of the reference file. Reference file be returned to the Chairman of the Council, (Director of Industries) Shimla. A signed copy of the Award be supplied to Mr. Jai Gopal, free of costs and also a signed copy of award be retained in this office for record.”

3. Feeling dissatisfied against the non-execution of the award, the Execution-Petitioner/Decree-Holder herein, invoked execution proceedings in Execution No.14 of 2022.

4. The present Execution Petition No.14 of 2022 was listed before this Court and on 21.10.2022 this Court had passed the following orders:

“Notice be issued to the respondent returnable within four weeks, on taking steps within a period of three days.”



5. The case was then listed on 16.05.2023 and since the Judgment-Debtor/Respondent herein was duly served but had chosen not to appear was proceeded *ex parte*. The orders passed by this Court on 16.05.2023 read as under:-

“Judgment debtor, who is duly served, stands proceeded against *ex parte*, as such, learned counsel for the Decree Holder prays for and is granted two weeks’ time to file list of properties of the judgment debtor, enabling this court to pass further orders in the matter.

List after two weeks.”

6. In order to claim the execution of the Award dated 14.06.2022 in Arbitration Claim No.175 of 2021 referred to above, this Court directed the present Petitioner/Decree-Holder, to file a list of properties of the Judgment-Debtor-M/s Kerala Medical Services Corporation Limited on 23.08.2023. In compliance to the orders dated 23.08.2023, the Decree-Holder/Execution Petitioner/ Claimant filed a *CMP No.571 of 2023* and as per *Annexure A-1*, thereto Ms. Madhurika Sekhon, learned counsel for the Petitioner/Decree-Holder has placed on record Annexure A-1, the list of properties i.e. bank account details, of the Judgment Debtor which read as under:-



**Bank Details of Kerala Medical Services Corporation Limited for
Essential drugs Tenders.**

01	Name & Address	Kerala Medical Services Corporation Ltd, (Dept of Health & Family welfare, Govt of Kerala), Thycaud P.O, Thiruvananthapuram – 695014,
02	Details of Bank Account	Current Account
03	Name & Address of the Bank	Punjab National Bank, Anjana Building, Puttupally Lane, Medical College, 695011, Trivandrum
04	Bank Tel No	0471-25552765, 2555675
05	MICR Code	695024003
06	Account Number	3624001800000019
07	IFS Code	PUNBB0362400 (First Four Letters are Alphabets)
08	Name of the Authorised Signatory	Managing Director, KMSCL

7. In addition to Bank details, Ms. Madhurika Sekhon Verma, learned counsel, has placed on record Annexure A-2, showing the principal place of business of the Judgment-Debtor/Respondent-M/s Kerala Medical Services Corporation Limited, herein.

8. A perusal of the Arbitral Award dated 14.06.2022, reveals that once awarded amount as mentioned in Para 10 of Award as on 31.01.2022 is *Rs.1,70,63,385 (Rupees One Crore Seventy Lakhs Sixty Three Thousand and Three Hundred Eighty Five Only) [i.e. Rs.58,73,939/-] (Rupees Fifty Eight Lakhs Seventy Three Thousand and Nine Hundred Thirty Nine Only) (Principal amount) plus Rs.1,11,89,446 (Rupees One Crore Eleven Lakhs Eighty Nine Thousand and Four*



Hundred Forty Six Only) (Compounded interest thereon); *and* arbitration fees and future interest at the same rate as in the Calculation Sheet; is still unpaid by the Respondent/Judgment-Debtor herein, therefore, this Court directs the *Registry of this Court to issue “Warrant of Attachment by freezing the Bank Account No.3624001800000019 of the Judgement-Debtor/ Respondent, as contained in Annexure A-1, with CMA No.571 of 2023, forthwith.*

9. In terms of the orders/directions in Para 8 above, directions be issued to “Punjab National Bank, Anjana Building, Puttupally Lane, Medical College, 695011, Trivandrum”, to stop transactions from this account forthwith.

10. Let “Warrant of Attachment” be issued and forwarded by the Registry to concerned Court for execution/implementation and also to the Punjab National Bank, Anjana Building, Puttupally Lane, Medical College, 695011, Trivandrum, by all permissible mode(s) in accordance with law.

11. Registry is also directed to send a copy of this order to the Judgment-Debtor-Respondent-M/s Kerala Medical Services Corporation Limited, by all



permissible modes like e-mail, FAX and by speed-post notice, in accordance with law, forthwith.

List on **01.12.2023**, for compliance.

November 23, 2023
(Shivender)

(Ranjan Sharma)
Judge