

11.11.2022

Court : 04
Item : DL-128
Matter : FMA
Status : OP
Transcriber: NANDY

FMA 825 of 2019
with
CAN 1 (4657) of 2019

Friends Engineering Co-operative Society Limited
Vs.
Digha Shankarpur Development Authority

Mr. Indaranil Nandi, Advocate
Mr. Sauak Konar, Advocate
Mr. Monoranjan Maiti, Advocate

.....for the Applicant

Mr. Surajit Nath Mitra, Senior Advocate
Mr. Nayan Chand Bihani, Advocate
Ms. Papiya Banerjee Bihani, Advocate

.....for the Respondent

CAN 1 (4657) of 2019

This is an application for stay of the operation of the judgment and order dated March 12, 2019 passed by the learned District Judge, Purba Medinipur in Judicial Miscellaneous Case No. 23 of 2014. The said misc. case was registered on the basis of an application under Section 34 of the Arbitration and Conciliation Act, 1996 challenging the award made and published by the Arbitral Tribunal. By the impugned order the learned Judge has set aside the award, which is impugned in the instant appeal.

After hearing the respective Counsel, we do not find that the manner in which the prayer is couched can be granted at this stage. Since the award pertains to the monetary claim and in the event the impugned order is stayed, it would make such award operative and, therefore, we do not think that the prayer made in the instant application can be granted. However, we feel that justice would be subserved if the appeal itself is decided as expeditiously as possible.

We, therefore, direct the appellant to deposit the Special Messenger Cost for bringing the Lower Court Record by Monday i.e. 14.11.2022.

Office is directed to bring the Lower Court Record immediately upon deposit of the Special Messenger Costs and shall ensure that the same reaches to this Court within three weeks therefrom.

After arrival of the Lower Court Records, the Office shall examine the same and if found complete, shall issue notice of arrival of LCR on the learned Advocate-on-record of the Appellant under Rule 12 Chapter IX of the Appellate Side Rules.

The appellant is directed to prepare eight copies of informal paper books within four weeks from the date of service of notice of arrival of LCR and shall file the same in the department. All formalities including the preparation of paper books and filing of the appellant's declaration are dispensed with.

The respondent has already entered appearance through learned Advocate Ms. Papiya Banerjee Bihani with Mr. Surajit Nath Mitra, learned Senior Counsel and Mr. N.C. Bihani, learned Advocate. Ms. Banerjee, learned Advocate who undertake to file Vakalatnama by Tuesday i.e. 15.11.2022.

Let such Vakalatnama be tagged with the file if filed within such time.

In the event, such Vakalatnama is filed, the appeal shall be treated ready as regards service.

Liberty is granted to the parties to mention for early hearing of the instant appeal the moment the paper book is filed.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)