



2023:CHC-OS:5117

ODC-13

AP/40/2020
IA NO: GA/4/2021, GA/5/2021,
GA/6/2022, GA/7/2022
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE
[COMMERCIAL DIVISION]

DAMODAR VALLEY CORPORATION
VS
RELIANCE INFRASTRUCTURE LTD

BEFORE:
The Hon'ble JUSTICE RAVI KRISHAN KAPUR
Date : 3rd February, 2022.
[Via Video Conference]

Appearance:
Mr. Tushar Mehta, Ld. Solicitor General.
Mr. Ratnanko Banerjee, Sr. Adv.
Ms. Vineeta Meharia, Adv.
Mr. Amit Meharia, Adv.
Mr. Santanu Chatterjee, Adv.
Ms. Urmila Chakraborty, Adv.
Ms. Tannistha Singh, Adv.
Ms. Paramita Banerjee, Adv.
Ms. Subika Paul, Adv.
...for petitioner.

Mr. Harish Salve, Sr. Adv.
Mr. Prateek Sakseria, Adv.
Mr. Paritosh Sinha, Adv.
Mr. Atanu Roychowdhury, Adv.
Mr. Rohit Banerjee, Adv.
Mr. Sauhbik Chowdhury, Adv.
Ms. Shrayashee Das, Adv.
Mr. Pushan Majumdar, Adv.
Ms. Ayushmita Sinha Sahni, Adv.
Mr. Jishnujit Roy, Adv.
...for respondent.

The Court : This is an application for modification of an order dated
23 December, 2021 passed in an application under Section 36(2) of the



Arbitration and Conciliation Act, 1996 (the Act). By the said order this Court had inter alia directed as follows :

“ For the foregoing reasons, I am of the view that since the award is a money award for approximately Rs.898 crores, I direct that there shall be a stay of the award subject to the condition that the petitioner deposit 50% of the awarded amount of Rs. 898 crores by way of cash security or its equivalent to the satisfaction of the Registrar Original Side, High Court at Calcutta. Upon such deposit being made, the Registrar Original Side is directed to make a fixed deposit of the said amount with any nationalised bank and keep the same renewed till the disposal of the application under section 34 of the Act or until further orders of Court. The remaining 50% of the awarded amount of Rs. 898 crores be secured by way of bank guarantee(s) of a nationalised bank by the petitioner to the satisfaction of the Registrar Original Side, High Court. The aforesaid exercise is to be completed within a period of four weeks from the date of this order. In the event security as directed above is furnished, there shall be stay of execution of the award till the disposal of AP 40 of 2020.”

Being aggrieved by the above order, the petitioner had preferred a Special Leave Petition being SLP (C) 505 of 2022, wherein the Hon'ble Supreme Court had, inter-alia granted liberty to the petitioner to approach this Court for alteration of the order dated 23 December, 2021.

Heard the parties.

Prima facie it appears from a reading of the application that the petitioner has sought for modification and alteration of the order dated December



23, 2021 on the ground that, since the award is for a sum of approximately Rs.898 crores, it will cause severe financial distress to the petitioner company to even secure the entirety of the award.

In view of the alleged financial condition of the petitioner, I request the Learned Solicitor General, appearing on behalf of the petitioner and Mr. Salve, Senior Advocate appearing on behalf of the respondent to attempt to see whether an out of Court settlement may be arrived at by and between the parties.

This is without prejudice to the rights and contentions of the parties.

List this matter for hearing on 10 February, 2022.

Liberty is granted to the respondent to file an Affidavit in Opposition to GA 7 of 2022 by 7 February, 2022. Reply, if any, prior to the returnable date.

(RAVI KRISHAN KAPUR, J.)