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IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

IA NO. GA/8/2022
In AP/40/2020

DAMODAR VALLEY CORPORATION
Vs
RELIANCE INFRASTRUCTURE LTD

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 7th September, 2022.

Appearance:

Mr. Ratnanko Banerji, Sr. Adv.

Ms. Vineeta Meharia, Adv.

Mr. Amit Meharia, Adv.

Mr. Santanu Chatterjee, Adv.

Ms. Urnila Chakraborty, Adv.

Mr. Manishk Kejriwal, Adv.

Ms. Paramita Banerjee, Adv.

Ms. Subika Paul, Adv.

Mr. Paritosh Sinha, Adv.

Mr. Atanu Roychaudhuri, Adv.

Ms. Shrayashee Das, Adv.

Mr. Pushan Majumder, Adv.

Mr. Rohit Banerjee, Adv.

Ms. Ayushmita Sinha, Adv.

Mr. Jishnujit Roy, Adv.

The Court:- This is an application for modification and clarification of an order dated 25 March, 2021 ("the order").

By the order, this Court had directed as follows:-

- a) The order dated 23 December, 2021 stands modified to the extent that the award debtor be directed to deposit a sum of Rs.595 crores by way of cash security or its equivalent to the satisfaction of the Registrar, Original Side, High Court at Calcutta. The balance of Rs.303 crores



shall be secured by the award debtor by way of bank guarantee(s) of a nationalised bank to the satisfaction of the Registrar, Original Side, High Court at Calcutta.

- b) If the deposit of Rs.595 crores as directed above is made, the award holder shall be entitled to withdraw the whole or a portion of the amount deposit upon furnishing a similar unconditional bank guarantee to the satisfaction of the Registrar, Original Side, High Court covering the amount withdrawn.
- c) All such bank guarantees as directed above should be kept alive until further orders of Court. The bank guarantees shall also be renewed at least one month before the schedule date of expiry.
- d) The aforesaid exercise is to be completed within a period of four weeks from the date of this order.
- e) In the event, security as directed is furnished, there shall be a stay of enforcement of the award.
- f) In case the award holder does not withdraw the sum of Rs.595 crores or any portion thereof (within a period of four weeks from the date of deposit by the award debtor), 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 disposal of AP No.40 of 2020 or until further orders of the Court.
- g) With the aforesaid modifications, GA 6 of 2021 stands disposed of.
- h) GA 7 of 2021 stands dismissed.



Being aggrieved by the order, both parties had preferred Special Leave Petitions. By an order dated 25 April, 2022, the Hon'ble Supreme Court dismissed both the Special Leave Petitions and extended the time for the award debtor to comply with the order within a period of four weeks.

Thereafter, the award debtor being unable to comply with the order, sought for a further extension from the Hon'ble Supreme Court. By an order dated 31 May, 2022 the Hon'ble Supreme Court extended the time period for the award debtor to comply with the order within a further period of eight weeks from the date of the order.

Ultimately, the award debtor complied with the directions in the order and also filed an Affidavit of Compliance dated 27 July, 2022.

Thereafter, a spate of correspondence ensued between the award holder and the award debtor.

This application has been necessitated primarily on the ground that the award holder seeks modification of the order.

It is contended that the award holder has been unable to furnish the unconditional bank guarantee within the stipulated time period of four weeks in order to withdraw the amount deposited by the award debtor. Thus, the award holder seeks an extension of time. The award holder also seeks permission to furnish the bank guarantees for an amount of Rs.595 crores in multiple parts within a period of four weeks.

Mr. Ratnanko Banerji, Senior Advocate appearing on behalf of the judgment debtor opposes the prayer for extension. It is submitted on behalf of the judgment debtor that a valuable right has accrued in favour of the judgment



debtor in view of the default of the award holder in furnishing the bank guarantee within the stipulated time period. It is also contended that the money has since been invested in a fixed deposit, hence, the award holder should not be permitted to withdraw the same.

I have considered the submissions made on behalf of the parties.

I find that notwithstanding the order permitting the award debtor to make the deposit within a period of four weeks from the date of passing of this order i.e., 25 March, 2022, the award debtor had ultimately deposited the money on 22 July, 2022. Thus, the award debtor has taken approximately a period of three months in furnishing the bank guarantee and approximately 3 years since the passing of the impugned award. Hence, I find that there is no justification in the award debtor opposing the prayer for extension of the award holder to furnish the bank guarantee.

I also find that the prayer for the award holder to deposit the bank guarantees in multiple parts is formal and procedural and does not impinge on the substantive rights of the parties. Accordingly, there is no reason to reject either the prayer for extension of time or the prayer for deposit of bank guarantees in multiple parts. The award debtor cannot be prejudiced by any of these directions.

Accordingly, there shall be the order in terms of the prayer (c) of the Notice of Motion.

Since the period of four weeks as prayed for by the award holder falls within the ensuing Puja Vacation, the time period to comply with the directions



by the award holder stands extended till one week after the ensuing Puja
Vacation.

With the aforesaid directions, GA/8/2022 stands disposed of.

(RAVI KRISHAN KAPUR, J.)

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