

OCD-12

ORDER SHEET

AP-COM/91/2024

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

SREI EQUIPMENT FINANCE LIMITED
VS
MR. PRADYUMNA SINHA AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 20th February, 2024.

Appearance:

Mr. Jishnu Saha, Sr. Adv.

Mr. Soumya Raychowdhury, Adv.

Mr. Aditya Kanodia, Adv.

Mr. Anirban Ray, Adv.

Mr. Shounak Mitra, Adv.

Mr. Vishwarup Acharyya, Adv.

Mr. Sannidhya Datta, Adv.

The Court : The petitioner seeks interim protection under Section 9 of the 1996 Act in terms of an Agreement entered into between the parties by which the petitioner gave a loan of Rs.695 crores to the respondents.

The background to the controversy is not required to be gone into at this stage since the respondents have acknowledged the loan and the respondents' indebtedness to the petitioner by way of a letter written by the respondents on 17th November, 2023. This letter was in reply to a notice of demand sent by the petitioner on 1st November, 2023. By the said letter, the respondents

disclosed that the respondents were trustees of Power Trust which has availed of financial assistance from the petitioner and that the respondents undertake to repay the loan out of the sale proceeds from sale of shares held by India Power Corporation Limited.

Learned counsel appearing for the respondents submits that this letter was given in respect of a loan taken from SIFL, which was the assignor of the loan in respect of the present petitioner/SEFL. Counsel submits that even if the respondents do not stand in the way of securing the loan, it should be ensured that the money goes to the right hands. Counsel refers to an order passed by the NCLT, Kolkata Bench on 11th August, 2023 recording a Business Transfer Agreement between SIFL and SEFL/petitioner by which the loans would stand assigned in favour of the petitioner.

Whatever be the alleged uncertainty of the assignment of the loans in favour of the petitioner, it is clear that the respondents owe a substantial amount of money to the petitioner. The amount is presently Rs.633 crores. The letter written on behalf of the respondents on 17th November, 2023 does not dispute the fact of the loan. The only difficulty appears to be the Depository Participant, one Ashika Stock Broking Limited, which is resisting the sale of the shares of IPCL in Power Trust.

The Court takes note of the submission made on behalf of the respondents that Rs.633 crores is an inflated amount.

Hence, this Court is of the view that a Special Officer may be appointed to oversee the sale of shares upon appropriate directions on the Depository Participant.

The order shall be in the form of an interim protection, subject to the fate of the arbitration petition.

Mr. Manish Ray of the Bar Library Club is accordingly appointed as the Special Officer to take appropriate steps in respect of the sale of 32,37,45,165 shares of India Power Corporation Limited held by the respondents in Power Trust by issuing appropriate directions on the Depository Participant. Since the shares are listed and in demat form, the Depository Participant should comply with the direction within two weeks from today. The initial remuneration of the learned Special Officer of Rs. 1 lakh should be borne by the petitioner. The petitioner shall also bear the travel and secretarial costs of the Ld. Special Officer.

The learned Special Officer shall file a report by 7th March, 2024.

List this matter on 11th March, 2024.

The affidavit-of-service is kept on record.

(MOUSHUMI BHATTACHARYA, J.)