

ODC-9

ORDER SHEET

IA No. GA/1/2021

In

CS/182/2021

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

NARSINGH ISPAT LIMITED
Versus
JWALA COKE INDUSTRIES

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 16th September, 2021.

[Via video conference]

Appearance:

Mr. Reetobrata Mitra, Adv.

Mr. Anirban Kar, Adv.

Mr. Pramit Kumar Shee, Adv.

Ms. Nibedita Mukherjee, Adv.

Ms. Vedatri Bhattacharya, Adv.

... for the plaintiff

The Court: This is a claim on account of coal supplied by the petitioner to the respondent for being converted into coke and the respondent supplying the said coke to the petitioner for an amount commensurate to the value of the coke supplied to the petitioner. The transaction between the parties would appear in correspondence exchanged between the petitioner and the respondent in August, 2021. The claim in the present application for interim relief arises out of a shortfall between the quantity of coal supplied by the petitioner to the

respondent and the quantity of coke which was supplied by the respondent to the petitioner upon conversion of the same.

Learned counsel appearing for the petitioner refers to two letters between the parties of 16th August, 2021 (of the respondent) where a claim of Rs.3.61 crores was made by the respondent against the petitioner and the letter of 19th August, 2021 by which the petitioner responded to such claim. Counsel relies on the ledger accounts of the petitioner as well as bank statement to show that the amount of Rs.1.96 crores was paid by the petitioner to the respondent including by way of a credit notes. The particulars of the claim can be found in the petition amounting to Rs.2.04 crores which matches with the shortfall of the quantum between the coal supplied by the petitioner to the respondent and the converted coke received by the petitioner from the respondent. Although the document of arrest of the person in control of the respondent is slightly dated, the apprehension that the petitioner's present claim being at risk is borne out from the pleadings in the application including that of the precarious financial condition of the respondent.

Counsel submits that the application is being moved ex parte since the notice of the application may result in the respondent disposing of the coal which is presently with the respondent for conversion. It is also submitted that the converted product i.e., the coke is of perishable nature.

Upon hearing learned counsel and upon assessment of the material before the Court, the petitioner has established a prima facie case for an ad-interim order of injunction since a clear case of shortfall has been made out in the petition as also the petitioner making payment of Rs.1.96 crores to the respondent.

There shall accordingly be an order of injunction in terms of prayer (a) of the Notice of Motion restraining the respondent from selling or transferring an amount of coal or coke which would be equivalent to Rs.2.04 crores which is presently found to be due and owing to the petitioner by reason of the shortfall. The injunction shall remain in place for a period of four (4) weeks from date.

Since this order has been made ex parte, the respondent shall be at liberty of varying the same upon service to the respondent which shall be within a week from date.

List this matter after three (3) weeks.

(MOUSHUMI BHATTACHARYA, J.)