

ODC-17

EC/322/2021
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Via Video Conference)

CENTRAL INLAND WATER TRANSPORT CORPORATION LIMITED
VS
LMJ SHIPPING PVT. LTD.

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 15th February, 2022.

Appearance:-

Mr. Priyankar Saha, Adv.

Mr. Ashok Kumar Jena, Adv.

Mr. Nirmalya Dasgupta, Adv.

The Court:- This is an application for execution of an award dated 11th April, 2019. It is submitted on behalf of the decree-holder that the challenge under Section 34 of the Arbitration and Conciliation Act, 1996 filed by the judgment-debtor had been dismissed by an order dated 25th November, 2019. Accordingly, the award has become binding and enforceable and there is no embargo on the petitioner in proceeding with this application.

By an order dated 14th December, 2021, the judgment-debtor was duly served a copy of this application.

The judgment-debtor is represented and submits that the disputes raised by the decree-holder do not fall within the definition of 'commercial disputes' as defined under the Commercial Courts Act, 2015. It is further submitted on behalf of the judgment-debtor that in any event, the decree-holder is not entitled

to an order in terms of prayer (a) and has to exhaust all the remedies available before the decree-holder before seeking in terms of prayer (a). In reply, it is submitted by the decree-holder that the award arises out of a dispute for transportation of goods which had been undertaken by the decree-holder which is engaged in the business of riverine cargo operation, charter hire of vessel and other inland shipping activities. As such, this is a commercial disputes within the meaning of Section 2(1)(c) of the Commercial Courts Act, 2015.

I find that it is an indisputable position that the award has ripened for execution and the decree-holder has an indefeasible right to initiate this application.

I do not find any merit in the objections raised by the judgment-debtor, that this is not a 'commercial disputes' as defined under the Commercial Courts Act, 2015. On the other hand, I am of the view that the disputes between the parties fall within the definition of Section 2(1)(c)(v) of the Commercial Courts Act, 2015.

In any event, on the merits of this application, there is not an iota of defence which the decree-holder can demonstrate to the prayers in the Tabular Statement.

In view of the aforesaid, there shall be an order in terms of prayer (a) and (e) of the Tabular Statement.

Let this matter appear on 28th February, 2022.

(RAVI KRISHAN KAPUR, J.)