

OCD 1

ORDER SHEET
EC-COM/447/2024
IA NO:GA-COM/1/2025, GA-COM/2/2025
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

ESSEX DEVELOPMENT INVESTMENTS MAURITIUS LIMITED
VS
GOVERNMENT OF WEST BENGAL AND ANOTHER

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 13th June, 2025.

Appearance:
Mr. Ratnanko Banerji, Sr. Adv.
Mr. Arunabha Deb, Adv.
Mr. Deepan Kumar Sarkar, Adv.
Ms. Ashika Daga, Adv.
Mr. Samriddha Sen, Adv.
Mr. Raunak Das Sharma, Adv.
Ms. Sampurna Mukherjee, Adv.
...for the petitioner.

Mr. Kishore Dutta, Ld. Advocate General.
Mr. Jishnu Saha, Sr. Adv.
Mr. Manoj Kumar Tiwari, Adv.
Mr. Siddharth Sethi, Adv.
Ms. Sumita Shaw, Adv.
Mr. Deepak Anand, Adv.
Ms. Rajeshwari Prasad, Adv.
. . .for the respondents.

The Court:

1. Affidavit-in-opposition to the execution application filed by the award debtor No. 1 is taken on record. Reply thereto, if any, be filed by 26th June, 2025.

2. Mr. Ratnanko Banerji, learned senior advocate, appearing on behalf of the award-holder submits that the application being GA-COM/2/2025, which is in the nature of an application under Section 47 of the Code of Civil Procedure filed in the execution case, should not be taken up for hearing without compliance of the orders dated November 22, 2024 and February 26, 2025.
3. By an order dated November 22, 2024, this Court had directed that the award-debtor no.1 shall be enjoined from creating any third party interest by way of transfer, sale or assignment of any of its immovable properties within the limits of the Kolkata Municipal Corporation. The award-debtor no.2 would be enjoined from transferring, selling, encumbering and alienating the property situated at 23, Camac Street, Kolkata – 700 017. The principal officers of the award-debtors were directed to file their affidavits of assets within two weeks. Two affidavits of assets have been filed before the Court, both by the Principal Secretary, (Commerce and Industry), award-debtor no.1. In the first affidavit of assets, land situated at Haldia and a further land measuring 1 acre at Salt Lake Township Kolkata were disclosed. Those lands are leased in favour of Haldia Petrochemical. An objection was raised by Mr. Banerji, that an encumbered property would not be sufficient security in this regard.
4. The Court by an order dated 26th February, 2025, directed the award-debtor no.1 to file a further supplementary affidavit disclosing other

immovable properties and the account number of the account maintained with the Reserve Bank of India. Today, a supplementary affidavit has been filed and paragraph 2 of the same discloses other immovable properties owned by the award-debtor no.1. In paragraph 3 thereof, the Principal Secretary has stated that the Department of Industry, Commerce & Enterprises does not have an account with the Reserve Bank of India. According to Mr. Banerji, the said affidavit is also not in compliance of the order passed by this Court.

5. The order dated November 22, 2024 is modified to the extent that the order of injunction which was restricted to the properties of the award-debtor no.1 in respect of those situated within the jurisdiction of the Kolkata Municipal Corporation, shall also stand extended in respect of all the properties which have been disclosed in paragraph 2 of the said supplementary affidavit. It is a specific averment of the Principal Secretary that the properties which have been mentioned in paragraph 2 are not encumbered and the market value would be in excess of Rs. 2100 crores. The Court reposes faith in the disclosure made by the Principal Secretary of the Department, who is a very senior officer of the award-debtor No.1 (Department). With regard to the disclosure of the bank account, it is submitted by the learned Advocate General that the bank account maintained by the concerned department will be disclosed on the next date, upon learned Advocate General obtaining instructions.

6. Under such circumstances, the Court continued with the hearing of the application being GA-COM/2/2025, in view of the direction issued by the Hon'ble Apex Court to the effect that the execution case and the proceeding arising therefrom must be heard by the Court on 13th June, 2025 and disposed of as soon as possible.
7. This Court is of the view that before the award is executed, discharged and satisfied, the application under Section 47 should be disposed of first. The balance of convenience and inconvenience has been taken care of and the order of injunction for the time being is sufficient security to ensure that the award is not frustrated by the time the proceedings are disposed of.
8. Heard the learned Advocate General at length.
9. Mr. Banerji also submits that an affidavit-in-opposition would be filed to the application being GA-COM/2/2025. However, in view of the direction of the Hon'ble Apex Court, the hearing of the matter continues.
10. Mr. Banerji submits that the matter was pending before the Hon'ble Apex Court. The award-holder did not get an opportunity to file any affidavit-in-opposition to the application, as no such directions had been passed.
11. Under such circumstances, although the hearing has commenced, an opportunity is granted to the award-holder to file an affidavit-in-opposition to the application within 23rd June, 2025. Reply if any, be

filed within 26th June, 2025. Let the matter appear in the list on 27th June, 2025.

12. The interim order passed today, will continue until further orders.

(SHAMPA SARKAR, J.)