

GAHC030000182015



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/48/2015

Union of India r/b The C.E. Project Pushpak
New Delhi

VERSUS

Hindustan Metal Refining Works (P) Ltd.
Aizawl, Mizoram

Advocate for the Petitioner : Ms Zairemsangpuii, CGC

Advocate for the Respondent : Mr Anil Rinliana Malhotra

BEFORE

THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

04.10.2023.

1. Heard Ms. Zairemsangpuii, learned CGC appearing on behalf of the applicant/Union of India. Also heard Mr. A. R. Malhotra, learned counsel for the respondent.
2. The present Interlocutory Application is filed by the Union of India who

was appellant in RFA No. 15/2011 (since disposed of).

3. The RFA No. 15/2011 (supra) was filed by Union of India assailing an arbitral award dated 24.11.2006 as well as order dated 28.02.2011 passed by the learned Additional District and Sessions Judge, Aizawl.
4. Said RFA No. 15/2011 was dismissed by this Court by final judgment and order (CAV) dated 01.07.2014 by upholding both the arbitral award as well as the order of the learned Additional District and Sessions Judge, Aizawl, as discussed hereinabove.
5. It is apposite to mention here that the appellant had deposited an amount of Rs. 17,07,602/- only being the 75% of the awarded amount of Rs. 22,76,802/- before the Registry of this Court as directed by this Court under its order dated 27.09.2011. Accordingly, this Court while dismissing the RFA (supra) provided that the aforesaid deposited amount before the Registry be released to the respondent along with interest if any accrued, after proper identification and verification.
6. Thereafter, the present application was filed with the following prayer:-

“It is therefore earnestly prayed that this Hon’ble Court be graciously pleased to allow the appellant to deposit the awarded amount with the Registry of this Hon’ble Court for onward payment to the respondent with the 75% already deposited before for the ends of justice”.
7. The affidavit filed on behalf of the respondent also reveals that an amount of Rs. 5,15,90,155/- was paid to the opposite party/ respondent by the appellant/applicant on 20.06.2015 claiming full and final satisfaction of

the decree/award, however, the respondent has raised an objection in the affidavit that still an amount of Rs. 69,13,097.58/- is remaining unpaid which was payable on 20.06.2015 inasmuch as it was the stand of the respondent that the appellant has made mistakes in calculation so far relating to the interest and the respondent also claims compound interest.

8. This Court is of the considered view that after dismissal of the first appeal upholding the award, this Court cannot adjudicate the issues raised in the present proceeding inasmuch as if there is any due in terms of the award, same is required to be recovered through an execution proceeding permissible under law and not in a disposed of regular first appeal. This Court cannot be converted into an Executing Court after dismissal of the first appeal.
9. Therefore, in the considered opinion this Court, the present application lost its cause of action, accordingly, the present Interlocutory Application stands closed.
10. It is needless to say that if the respondent is still aggrieved that the arbitral award has not been completely satisfied, they shall be at liberty to approach the appropriate forum permissible under law for execution of the award.
11. With the aforesaid observation, the I.A. stands closed.

JUDGE

Comparing Assistant