

Court No. - 8

Case :- MATTERS UNDER ARTICLE 227 No. - 6196 of 2023

Petitioner :- Bharat Petroleum Corporation Ltd. Thru. Its Territory Manager Retail Territory-Gonda

Respondent :- Anoop Kumar Modi

Counsel for Petitioner :- S M Singh Royekwar

Hon'ble Pankaj Bhatia,J.

1. Heard Sri S.M. Singh Royekwar, learned counsel for the petitioner, Sri G.C. Sinha, learned counsel for the respondent and perused the material available on record.

2. The present petition has been filed by the petitioner mainly aggrieved against the order dated 28.11.2023 on application number C-6, whereby the Commercial Court No. 1, Lucknow has refused to exercise the discretion for grant of an exparte injunction and had issued direction for service of notice to the respondent.

3. The contention of the counsel for the petitioner is that in terms of the award passed by the Arbitrator in favour of the respondent, the same has been put to execution and 20.12.2023 is fixed as the next date of execution, as such, in the application under Section 34 of the Arbitration and Conciliation Act, 1996, an application was filed for grant of exparte injunction, on which an order dated 28.11.2023 came to be passed.

4. The counsel for the respondent on the other hand argues that the manner in which the delay has been condoned and the application has been registered is arbitrary and was done without any notice to the respondent and he prays that he may be permitted to avail the remedy against the order whereby, the application under Section 34 was registered. However, both the parties agreed that the award which is subject matter of dispute had directed the payment of certain damages and in that context it can be termed as money decree. It is also agreed in between the parties that in terms of the award no amount whatsoever has been deposited by the petitioner till date.

5. Considering the submission and consent as recorded above, the present petition is ***disposed of*** staying the execution of the impugned award subject to the following conditions:-

The petitioner therein shall deposit an amount of Rs.35 Lacs (Rs.35,00,000/-) with the Commercial Court No. 2, Lucknow, where the execution applications are pending at the instance of the respondent within a period of four weeks from today. The amount so deposited by the petitioner shall be paid to the respondent on his executing a bond before the Commercial Court No. 2, Lucknow and

undertaking to the effect that the amount received by the respondent shall be subject to the outcome of the final litigation in between the parties. The respondent would be at liberty to move an appropriate application for recall of the order dated 28.11.2023 passed on the application no. C-4 and shall be entitled to take such steps as may be advised under law. The Commercial Court No. 1, Lucknow, subject to the arguments raised by the parties endeavour to decide the entire petition with all expedition without granting any unnecessary adjournments to either of the parties preferably within a period of four months from the date of production of certified copy of this order in accordance with law.

Order Date :- 12.12.2023
Arun