

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Execution Petition No.7 of 2024

Date of Decision: 30.12.2025

M/s Tenzin Construction Co. Pvt. Ltd. Petitioner

Versus

State of H.P. and Another

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioner: Mr. J.S. Bhogal, Sr. Advocate, with Mr. T.S. Bhogal, Ms. Swati Verma and Ms. Srishti Verma, Advocates.

For the Respondents: Mr. S.D. Vasudeva and Ms. Ayushi Negi, Deputy Advocate General, for the respondents-State.

Sandeep Sharma, J. (Oral)

By way of instant execution petition filed under Order XXI Rule 11 CPC read with Section 36 of the Arbitration and Conciliation Act, 1996, prayer has been made on behalf of petitioner **(for short, 'Decree Holder')** for execution and implementation of the Award dated 29.05.2023 passed by the learned Arbitrator in arbitration proceedings titled as *M/s Tenzin Construction Co. Pvt. Ltd. Vs. State of H.P. and Another* (available at page No.8 of the paper-book).

2. Though, in terms of order dated 12.11.2024, whereby execution and implementation of the Award was stayed, subject to

deposit of Award amount, respondents **(for short, 'Judgment Debtor')** have deposited the Award amount in the Registry of this Court along with up-to-date interest, but fact remains that despite repeated opportunities, no objections have been filed till date. It is also pertinent to take note of the fact that commercial arbitration case bearing CARBC No.72 of 2025, having been filed by the Judgment Debtor, laying therein challenge to the Award dated 29.05.2023, otherwise sought to be executed in the instant proceedings, stands dismissed by this Court vide judgment dated 10.12.2025. In the afore background, prayer has been made on behalf of Decree Holder to release the Award amount lying deposited with the Registry of this Court.

3. Mr. J.S. Bhogal, learned Senior Counsel representing the Decree Holder states that since Award sought to be executed has been upheld, coupled with the fact that till date, no appeal has been filed by the Judgment Debtor in the superior Court of law, instant execution petition deserves to be allowed.

4. Mr. S.D. Vasudeva, learned Deputy Advocate General, while fairly admitting the factum with regard to dismissal of the appeal preferred by the Judgment Debtor states that since limitation period to file appeal is yet to expire, prayer made on behalf of Decree Holder for release of Award amount may not be

accepted. He submitted that in the event of appeal being allowed, it may be difficult for Judgment Debtor to recover the amount.

5. Having heard learned counsel representing the parties and perused material available on record, this Court finds that contract was awarded in favour of the Decree Holder on 05.10.2016 and thereafter on account of certain disputes, matter was referred to arbitration on 05.03.2022. On account of pendency of dispute, as detailed hereinabove, amount, qua which Decree Holder has been otherwise held entitled by the learned Arbitrator, has not been paid to the Decree Holder for more than four to five years.

6. No doubt, Judgment Debtor has the remedy of filing appeal against the judgment dated 10.12.2025 passed by this Court, thereby dismissing the CARBC No.72 of 2025 filed by the Judgment Debtor, but this Court cannot lose sight of the fact that Decree Holder is in the business of construction and as such, may be requiring money for other projects. In case amount, which is otherwise lying deposited with the Registry of this Court is ordered to be released in favour of the Decree Holder, coupled with the fact that petitioner has been held entitled to such amount by learned Arbitrator, Award whereof has been further upheld by this Court, Decree Holder will be able to use the same in other projects or to repay the loans, if it has taken from the financial institutions.

Moreover, Decree Holder is ready and willing to furnish security qua the amount, if any, ordered to be released by this Court.

7. In view of the above, instant execution petition is disposed of, with a direction to Registry of this Court to release the Award amount lying deposited with it along with up-to-date interest in favour of Decree Holder, subject to its furnishing the bank guarantee of an equal amount to the satisfaction of Registrar General of this Court, within a period of one month, by remitting the same in its bank account, as detailed in Para No.7 of the OMP No.99 of 2025 (available at page No.83 of the paper-book), subject to verification by Accounts Branch. Needless to say, Decree Holder shall keep the bank guarantee alive till the final disposal of appeal, if any filed by the Judgment Debtor, against the judgment dated 10.12.2025 passed by this Court in CARBC No.72 of 2025. Liberty is reserved to the Decree Holder to file further execution, if required.

Pending application(s), if any, shall also stand disposed of.

December 30, 2025

(Rajeev Raturi)

**(Sandeep Sharma),
Judge**