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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COURT RECEIVER REPORT No. 14 OF 2017

IN

APPEAL (L) No. 794 OF 2015

IN

JUDGES ORDER No. 215 OF 2014

IN

EXECUTION APPLICATION No. 240 OF 2011

IN

FOREIGN AWARD Dated 17th January, 2011

Bhatia Industries & Infrastructure Ltd. ... Appellants

Vs.

Asian Natural Resources (India) Ltd. & Anr.... Respondents

Mr. Kezer Kharwala i/b Lex Juris, for the Appellants.

Mr. Zal Andhyarujins a/w Naira Jeejeebhoy, Aditya Krishnamurthy,
Pabitra Datta i/b Bose & Mitra & Co., for Respondent No. 2.

Mr. O. A. Das, for Bank of India – Applicant in NMAL. No. 315/2017

Dr. M. S. Deshpande, Court Receiver – Present.

CORAM : V. M. KANADE, &

P. R. BORA, JJ.

DATE : FEBRUARY 15, 2017

PC.

1. The Court Receiver has submitted a report. Pursuant to an order dated 26.10.2015 passed by this Court, the Court Receiver is

appointed as a receiver in respect of cargo containing 17000 MT of coal. A further direction was given to the Court Receiver to sell the coal in public auction. An option was also given to the Appellants to bring buyer and it was mentioned in the order that if the bid given by the said buyer is the highest bid, the coal was to be sold the said buyer and the sale proceeds were to be deposited in this Court and invested in a nationalised bank. Two attempts were made to sell the coal. However, both these attempts failed. Thereafter again an advertisement was issued for the purpose of sale of said coal by public auction. The Appellants have given an offer. In the offer, they have stated that they will not pay the customs duty, whereas one bidder Global Coal Ventures Pvt. Ltd. gave a higher offer than the Appellants, which included the customs duty, which was payable. In view of this offer, their bid was accepted. Under these circumstances, the report of the Court Receiver is accepted in terms of prayer clauses (a) and (b). The sale proceeds was to be deposited in this Court. The Court Receiver is permitted to deduct his charges of commission. The Court Receiver's Report is accordingly disposed of.

2. Mr. O. A. Das, learned counsel appearing on behalf of

Bank of India submitted that they will also have claim over the said amount. So far as priority of payment is concerned, the said issue would be decided at the subsequent stage. The Bank of India may file an application to that effect in this Court. He submitted that the Bank has already taken out notice of motion for that purpose. It may come up on board as per the CMS date.

Sd/-
[P. R. BORA, J.]

Sd/-
[V. M. KANADE, J.]

Vinayak Halemath