

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WP227 No. 48 of 2018

(Arising out of order dated 14.12.2017 passed by District Judge, Surguja, Ambikapur in Execution Case No. 67/2015)

Diksha Construction Through Director Mukesh Goswami Son Of Shri M. K. Goswami, Aged About 40 Years, R/o Darripara, Police Station And Tehsil Ambikapur, District Surguja, Chhattisgarh.

---- **Petitioner**

Versus

Sanjay Mishra Son Of Rambadan Mishra, Aged About 48 Years R/o Ring Road Bouripara, Ambikapur, District Surguja, Chhattisgarh.

---- **Respondent**

11.01.2018	Shri Shakti Raj Sinha, Counsel for the Petitioner. Heard. Learned counsel for the petitioner submits that the petitioner has challenged the arbitral award which was registered as Civil M.J.C. No. 102/2017 wherein an application for urgent hearing was also filed along with the stay application. However, the execution proceeding of the arbitral award and the proceeding of Civil MJC No. 102/2017 was taken up on the same day i.e. 14.12.2017 and the execution of the award for recovery by coercive process has been ordered whereas the prayer to decide the stay application has not been considered therefore, the execution proceeding may be stayed. Perused the order dated 14.12.2017 passed in execution case of the arbitral award as also the order dated 14.12.2017 which was passed in Civil MJC No. 102/2017. The application u/s 34 read with section 34 (2) of the Arbitration and Conciliation Act, 1996 is also perused. Considering the fact that the execution warrant arising out of arbitral award dated 16.08.2015, copy of which is filed as annexure P/2 and since the same

arbitral award which is subject of challenge in Civil MJC No. 102/2017, in the opinion of this Court, if the entire recovery is made, then the challenge to the award in Civil MJC No. 102/2017 would become infructuous. In view of the existing facts situation of the case, it is directed that on petitioner's depositing 35% of the arbitral award which is under execution, the rest of the recovery shall remain stayed till the application for stay of the award is decided which is filed in Civil MJC No. 102/2017.

With such observation, this petition stands disposed of.

**Sd/-
GOUTAM BHADURI
JUDGE**

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