

APO No. 9 of 2019
in
EC No. 556 of 2018
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

TAPAS KUMAR BHUNIA

Versus

JAGADISH PATRA

BEFORE:

The Hon'ble JUSTICE SANJIB BANERJEE

The Hon'ble JUSTICE SUVRA GHOSH

Date : 4th February, 2019.

Appearance:
Mr. Tapas Dutta, Adv.

Mr. Indranil Nandi, Adv.
Mr. Manoranjan Maiti, Adv.

The Court : The appeal has arisen out of an order dated December 19, 2018 passed on the appellant's execution application.

The appellant has a substantial arbitral award for a sum in excess of Rs.50 lakh. It is the admitted position that no pre-reference proceedings pertaining to the arbitration agreement was instituted in this Court.

The execution application was carried to this Court on the strength of the following averment at paragraph 14 of the affidavit in support of the tabular statement:

“14. I say that this Hon’ble Court has jurisdiction to entertain this application as the assets of the award-debtor is within the jurisdiction of this Hon’ble Court and the award-debtor is also ordinarily available within the jurisdiction of this Hon’ble Court. ”

As to the first part of the allegation in paragraph 14 of the said affidavit, it is evident that no asset is identified. As such, the first part of the assertion in the relevant paragraph cannot be taken notice of. As to the second part of the assertion, that pertaining to the person of the award-debtor being available within jurisdiction, it is evident from the cause-title that the address of the award-debtor is indicated to be somewhere in Purba Medinipur and not anywhere within the ordinary original civil jurisdiction of this Court.

In such view of the matter, the order impugned cannot be interfered with since the appellant could not make out any ground to satisfy the executing Court that the execution proceedings could have been carried to this Court.

Accordingly, APO No. 9 of 2019 is dismissed with liberty to the appellant to approach the appropriate Court entitled to receive the execution proceedings pertaining to the relevant arbitral award.

There will be no order as to costs.

(SANJIB BANERJEE, J.)

(SUVRA GHOSH, J.)