

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No.454 of 2014**

Megma Leasing Limited, Registration Office-24, Park Street, Kolkatta
(West Bengal)

----Petitioner

Versus

1. Mandas Sahu, son of Devlal Sahu, resident of Village Bhatipur,
Post Office Singhola, District Rajnandgaon (CG)
2. Manoj Kumar Sahu, son of Mandas Sahu, resident of Village
Bhatipur, Post Office Singhola, District Rajnandgaon (CG)

---- Respondents

For Petitioner	:	Mr.Amit Soni, Advocate
For Respondents	:	Mr.Roop Naik, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****04/01/2019**

1. The arbitral award was passed in favour of the petitioner company, when it was put to execution under Section 36 of the Arbitration and Conciliation Act, 1996, it was objected to on the ground that decree-holder company is no more in existence and that objection was allowed on 23.11.2012, against which, the petitioner filed Civil Revision No.31 of 2013 before this Court. By order dated 18.4.2013 civil revision was dismissed with liberty to file appropriate application under Order 21 Rule 16 of the CPC for execution of the award which has a force of decree. When the application under Order 21 Rule 16 of the CPC was filed, the

Executing Court by the impugned order rejected the application on the ground that order dated 23.11.2012 has not been set aside by the revisional Court/this Court. Against which, this writ petition has been filed.

2. Learned counsel for the petitioner would submit that the impugned order is unsustainable and bad in law.
3. On the other hand, learned counsel for the respondents would support the impugned order.
4. I have heard learned counsel for the parties and perused the impugned order.
5. In fact, this Court has clearly given liberty to the petitioner company to file application under Order 21 Rule 16 of the CPC for execution of the award having force of decree, which ought to have been considered by learned District Judge, which has not been considered and application has been rejected on the ground that order dated 23.11.2012 has not been set aside.
6. In view of above, the impugned order is set aside. The matter is remitted to the Executing Court for deciding the application filed by the petitioner under Order 21 Rule 16 of the CPC in accordance with law. If such an application has not been filed, the petitioner is at liberty to file such an application within two days.

7. The writ petition is allowed to the extent indicated hereinabove. No cost(s).

Sd/-
(Sanjay K.Agrawal)
Judge

B/-