

19.10.2020
KC(7)

F.M.A.T. 419 of 2020
M/s. ACE Engineering Infratech (I)
Pvt. Ltd.
-versus-
Bharat Heavy Electricals Limited
With
CAN 1 of 2020

Mr. Ritobroto Mitra,
Mr. Pawan Kumar Maheswari,
Mr. Suvasish Sengupta.....For the appellant.

Mr. Aniruddha Bhattacharya.....For the respondent.

As the issue involved in this appeal is very short we propose to hear out the appeal treating the same on the day's list dispensing with all formalities.

There is a works contract between the parties. On 19th September, 2020 the respondent served a notice on the appellant/petitioner threatening to terminate the contract. The appellant/petitioner filed an application under Section 9 of the Arbitration and Conciliation Act, 1996 in the court below. No interim order was made.

During the pendency of this appeal, on 13th October, 2020 the respondent terminated the contract and encashed the bank guarantee.

This is the main grievance of the appellant/petitioner.

The impugned order of the court below is an ad-interim order. The matter will be heard once again upon notice to and upon hearing the respondent. The

appellant/petitioner will be at liberty to take steps to bring on record the subsequent events before the court below.

So that a proper balance is maintained on the above respective prima facie cases of the parties, we direct that the respondent shall not take any steps against the appellant further to termination of the contract till 15th December, 2020 or until further order of the court below whichever is earlier. By this time, the appellant has to take the above proper steps before that court.

With regard to the prayer of Mr. Mitra for the appellant that the bank guarantee amount should be kept separate, this court is of the view that since the respondent is a public corporation there is no immediate necessity of this order being passed by this court. The appellant will be at liberty to make such prayer before the court below which shall consider the same in accordance with law. All points are kept open.

The appeal (F.M.A.T. 419 of 2020) and connected application (CAN 1 of 2020) are disposed of.

(I.P. MUKERJI, J.)

(MD. NIZAMUDDIN, J.)

