

16.7.2021

ASR

4.

**FMAT 362 of 2021
With
I.A No. CAN 1 of 2021**

(Via Video Conference)

**Kalyaneshwari Infrastructure Private Limited
Vs.
Amit Engineering Works & Ors.**

**Mr. Sudip Deb
Mr. Riju Ghosh**

.....for the appellant

Mr. Aniruddha Chatterjee

.....for the respondent no. 1

**Ms. Tanushree Dasgupta
Mr. Amit Chowdhury**

.....for the ECL

The appeal is admitted.

As the point involved is very short, we dispose of the same dispensing with all formalities.

The respondent No. 1/plaintiff has a money claim against the appellant/defendant No. 1 for Rs. 29,41,154 (rupees twenty nine lakhs forty one thousand one hundred fifty four). It arises out of allegedly unpaid lease rentals for machinery supplied to the appellant/defendant No. 1 by the respondent No. 1/plaintiff.

By the impugned judgement and order dated 18th March, 2021 the appellant has been restrained from realising their dues from Eastern Coalfields Limited (respondent no. 3) in respect of the subject contract.

The ground of challenge to this order by the appellant is that the respondent No. 1 has not been able to make out a case for such an attachment order.

Instead of going into the complex factual disputes, we think it would be just and equitable if the trial of the suit is expedited by conditioning the interim order that has been passed by the learned court below.

Learned counsel for the respondent No. 3 submits on instruction that the debt owing by her client to the appellant is Rs. 29,41,154 (rupees twenty nine lakhs forty one thousand one hundred fifty four) in respect of the said contract.

In those circumstances, we direct the respondent no. 3 to create a term deposit for this amount earning the highest rate of interest with a Nationalised Bank in favour of the appellant to the credit of the suit and keep the same renewed from time to time till the disposal of the suit or until further order whichever is earlier. Such term deposit should be created by 31st July, 2021.

The learned court below may be approached by either party for expediting trial of the suit and recording disposal of the interim application before it, by virtue of this order.

In case the appellant desires encashment of the term deposit and taking away the cash by furnishing a bank guarantee, it is at liberty to take out an appropriate application before the learned court below which will deal with the same on merits.

The appeal and the connected application are disposed of.

(I. P. Mukerji,J.)

(Arindam Mukherjee,J)