

ORDER SHEET

EC/471/2018

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

STARLIFT SERVICES PVT. LTD. @ ABG KOLKATA CONTAINER TERMINAL
VERSUS
BOARD OF TRUSTEES, KOLKATA PORT TRUST

BEFORE:
The Hon'ble JUSTICE DEBANGSU BASAK
Date: 28th January, 2021.

(Via Video Conference)

Appearance:
Mr. Tilak Bose, Sr. Adv.
Mr. Ashok Kr. Jena, Adv.

The Court: The execution petition appears in the list at the instance of the judgment-debtor.

Learned senior advocate appearing for the judgment-debtor submits that an award dated April 18, 2011 is sought to be executed by this execution petition. However, such award stands set aside in a proceeding under Section 34 of the Arbitration and Conciliation Act, 1996. As on date, there is no appeal pending. He submits that during the pendency of the execution petition, the judgment-debtor created two fixed deposits, one with Panjab & Sind Bank, N.S. Road Branch and the other with Oriental Bank of Commerce, Brabourne Road Branch in the name of the judgment-debtor. He submits that the original fixed deposit receipts were handed over to the learned Registrar, Original Side on April 22, 2019. He submits that with the award no longer being in existence, the execution petition is no longer maintainable. Since the judgment-debtor created fixed deposits and kept the fixed deposit receipts with the

learned Registrar, Original Side, it would be just and proper that the Court directs the learned Registrar, Original Side to make over the original fixed deposit receipts upon the judgment-debtor.

The award-holder is represented.

Learned advocate appearing for the award-holder submits that the award-holder will prefer an appeal from the order allowing the application under Section 34 of the Arbitration and Conciliation Act, 1996. He submits that the original fixed deposit receipts may be made over to the judgment-debtor, however, the execution petition may be kept pending.

Admittedly, the award put into execution, stands set aside. The award-holder is yet to prefer an appeal therefrom. As on date, therefore, the execution petition is not maintainable.

During the pendency of the execution petition, the judgment-debtor created two fixed deposits and made over the fixed deposit receipts to the learned Registrar, Original Side. In view of the award being set aside rendering the execution petition infructuous, at the present moment it would be appropriate to direct the Registrar, Original Side to make over the original fixed deposit receipts to the judgment-debtor within a fortnight from date.

The learned Registrar will make over the original fixed deposit receipts to the learned Advocate-on-Record for the judgment-debtor upon such Advocate-on-Record issuing valid receipt in respect thereof.

Since the award stands set aside, EC/471/2018 is disposed of.

The award-holder is at liberty to file a fresh execution petition, in the event, the award is revived.

(DEBANGSU BASAK, J.)