

\$~9

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Date of decision: 22.07.2021

+ O.M.P.(EFA)(COMM.) 4/2021 & EX.APPL.(OS) 132-133/2021

INDIAN OCEAN ENERGY PTE
LIMITED & ANR.

..... Petitioners

Through Mr.Ravi Sikri, Sr. Adv. with
Mr.Deepank Yadav, Adv.

versus

BUMI GEO ENGINEERING
LIMITED & ANR.

..... Respondents

Through Mr.Akhil Sibal, Sr. Adv. with
Mr.Aayush Agarwala, Mr.Anuj P.
Agarwala, Ms.Nitya Gupta, Advs. for
respondents with Mr.Balakrishnan
Jaikumar

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (oral)

The hearing has been conducted through video conferencing.

I.A. /2021 (exemption) (to be numbered)

1. Allowed, subject to all just exceptions.
2. Application is disposed of.

I.A. /2021 (u/O I Rule 10 r/w Section 151 CPC) (to be numbered)

3. This is a joint application on behalf of the petitioner Nos.1 & 2, proposed petitioners Nos.3 to 5 and respondent Nos.1 & 2 under Order I

Rule 10 CPC read with Section 151 CPC, seeking impleadment of the proposed petitioner nos.3 to 5 as necessary parties to the present petition.

4. In view of the reasons stated in the present application and no objection from the other side, the application is allowed. Consequently, M/S SHIGA Energy Private Limited, Mr.T. Narendra Rao & Ms.Sonal Somani Gupta are impleaded as newly petitioner Nos.3, 4 & 5 respectively. The Amended Memo of Parties is taken on record.

5. The application is accordingly disposed of.

O.M.P.(EFA)(COMM.) 4/2021 & EX.APPL.(OS) 132-133/2021

6. Petitioner No.1 - Indian Ocean Energy PTE Ltd. and petitioner No.2- Nirmanvridhi Constructions Private Limited, who are decree holders, have preferred the present petition under Chapter I of Part II of the Arbitration & Conciliation Act, 1996 read with Order XXI and Section 151 CPC for the Enforcement and Execution of the Foreign Award [Final award dated 24.05.2019 {SIAC Award No.64/2019}] read with Memorandum of Correction and Interpretation thereof dated 28.06.2019 {SIAC award No.64(a)/2019} passed in Singapore International Arbitration Centre in Arbitration No.64/2017.

7. The case of the petitioners is that in the year 2014, petitioner No.2 was approached by the respondents seeking investments in BUMI GEO

ENGINEERING PTE. LTD. and in the years of 2014-2015 and 2015-2016, petitioners, relying on the faith of certain representations, assurances and warranties of the respondents, had invested Singapore Dollars 4 Million (approx.), in a Singapore Company called BUMI Geo Engineering PTE Ltd. (BUMI Singapore). However, subsequently it was realized that the respondents had made fraudulent misrepresentations to secure such investments from the petitioners and had further misappropriated and siphoned off these investments.

8. The dispute regarding the Claim for Damages on account of such misrepresentations and the Claim for the Return of the Investments made by the Petitioners was referred to SIAC Arbitration. The Arbitration Proceedings culminated with the passing of the Award dated 24.05.2019 (SIAC Award No.064 of 2019), which was subsequently corrected vide the Memorandum of Correction and Interpretation thereof dated 28.06.2019 (SIAC Award No.064 (a) of 2019).

9. Before this Court, petitioners are seeking a direction to attach the bank accounts, movable properties, immovable properties and assets of the judgment debtors as detailed in THE SCHEDULE OF PROPERTIES APPENDIX-I and THE SCHEDULE OF PROPERTIES APPENDIX-I

AND APPENDIX-II as also such other and further bank accounts and movable properties and assets of the judgment debtors in terms of Order XXI of the CPC, for recovery of the amounts.

10. Directions are also sought for sale / appropriation of proceeds in the bank accounts, movable properties and assets, as immovable properties as detailed in **THE SCHEDULE OF PROPERTIES [APPENDIX-I AND APPENDIX -II]** in terms of Order XXI of the Code of Civil Procedure as well as to direct sale / appropriation of proceeds in the bank and other movable and immovable properties and assets, as also receivables / debts due from the group companies and alter egos of the judgment debtors, as also the debtors of the judgment debtors, as may be permissible under law.

11. On 27.05.2021, this Court had referred the matter to Delhi High Court Mediation and Conciliation Centre for petitioners and respondents to explore possibility of settlement.

12. During the course of hearing today, learned senior counsel for plaintiffs submits that petitioners and respondents have amicably resolved their disputes before Delhi High Court Mediation and Conciliation Centre in terms of Settlement Agreement dated 05.07.2021 and suit can be decreed in terms thereof..

13. The aforesaid submission of learned counsel for the petitioners is affirmed by the counsel appearing for defendants.

14. The mediated settlement dated 05.07.2021 has come on record. This Court has gone through the contents of Settlement Agreement dated 05.07.2021 and find it to be valid and lawful.

15. At this stage, learned senior counsel for the respondents submits that he wishes to withdraw the objections in reply to EA No.132/2021 as per Settlement Agreement dated 05.07.2021.

16. Permission is granted. At the request of learned senior counsel for respondents, EA No.132/2021 is accordingly dismissed as withdrawn.

17. Learned senior counsel for the respondents further submits that in terms of order dated 26.04.2021, affidavits of assets were filed in sealed cover, which are required to be returned to the respondents.

18. The aforesaid submission is not disputed by learned senior counsel for plaintiffs, however, he submits that the parties be directed to remain bound by the Settlement Agreement dated 05.07.2021.

19. Registry is directed to return the affidavits filed in sealed cover pursuant to order dated 26.04.2021 to the respondents (counsel/ authorized representative) as per rules. Needless to say, parties shall remain bound by

the terms and conditions of the Settlement agreement dated 05.07.2021.

20. Accordingly, the suit is decreed in terms of Settlement Agreement dated 05.07.2021, which shall form part of the decree. Decree sheet be accordingly drawn.

21. The Petition and pending applications are accordingly disposed of.

JULY 22, 2021
ab/r



(SURESH KUMAR KAIT)
JUDGE