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Ct. 18
02.03.2022

**C.O. No. 121 of 2022
(Via Video Conference)**

**Bharat Heavy Electricals Limited
Vs.
M/s. Power Mech Projects Limited**

Mr. Rohit Das,
Ms. Ishwar Rahman ... For the petitioner.

Mr. Ramesh Ch. Prusti,
Mr. Binay Kr. Upadhyay,
Mr. Balaram Pandit,
Mr. Akash Biswas ... For the opposite party.

Affidavit-of-service filed in Court today be kept with the record.

The matter although has appeared in the list under the heading '**Extension of Interim Order**' but by the consent of the parties, the revisional application is taken up for final disposal.

The petitioner has filed an application under Section 34 of the Arbitration and Conciliation Act, 1996 before the Commercial Court at Rajarhat, District – 24 Parganas (North) being Misc. Case No. 24 of 2019 for setting aside the arbitral award dated May 18, 2017 directing the petitioner to pay to the opposite party an amount of Rs. 1.349 crores.

On the prayer of the petitioner, the Court below by the order impugned being Order No. 41 dated December 17, 2021 has stayed the operation of the said award subject to deposit of the entire

awarded sum and allowed the opposite party to withdraw the said amount upon furnishing bank guarantee.

The petitioner is aggrieved by the part of the order impugned whereby the opposite party was permitted to withdraw the amount directed to be deposited.

The opposite party did not pray for such withdrawal of the said amount, in the absence of any prayer, grant of permission to withdraw the said amount is not warranted.

Therefore, the part of the order impugned whereby the opposite party was permitted to withdraw the awarded sum to be deposited by the petitioner upon furnishing bank guarantee, is set aside.

It is however made clear that this order will not prevent the opposite party to apply for withdrawal of the amount to be deposited by the petitioner in terms of the order impugned, and if such prayer is made, the Court below shall consider the same in accordance with law.

C.O. 121 of 2022 is disposed of with the above terms without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)

