

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

IA NO:GA/1/2021

APOT/133/2021

With

AP/684/2017

Prakash Industries Ltd.
Versus
Bengal Energy Ltd. & Anr.

BEFORE:

The Hon'ble JUSTICE SUBRATA TALUKDAR

-And-

The Hon'ble JUSTICE ANANDA KUMAR MUKHERJEE

Date : 6th April, 2022.

Mr. Paritosh Sinha with
Ms. Manali Bose,
Ms. Shrayashee Das &
Mr. Jishnujit Roy, Advs.
... for Appellant.

Mr. S.N. Mookherjee, Sr. Adv. with
Ms. Lopita Banerjee,
Ms. Urmila Chakraborty
Mr. Aasish Choudhury &
Ms. Aindrila Basu, Advs.
... for respondents.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

Mr. Sinha, learned Advocate, appearing for the appellant with Ms. Manali Bose, learned Advocate, produces the Term Deposit Advice of the State Bank of India as evidence of deposit of Rs.1,02,77,133/- by the appellant in favour of Mr. Aasish Choudhuri and Mr. Paritosh Sinha being respectively the learned Advocates-on-Record for the respondent

no.1/Bengal Energy Ltd. (BEL) and the appellant/Prakash Industries Ltd. (for short referred to as Prakash in the instant appeal).

Both Mr. Sinha and Ms. Urmila Chakraborty, learned Advocate appearing for the respondent no.1/BEL, draw the attention of this Court to the direction in Execution Case no.236 of 2021 *inter se* the present parties and arising out of an Arbitral Award in favour of BEL and against Prakash. It is submitted that by the order dated 23rd February, 2022 the parties were directed to deposit the aforementioned amount of Rs.1,02,77,133/- with the learned Advocates-on-Record of both the parties by a specific date.

The attention of this Court is further drawn to the order impugned of the Hon'ble Single Bench dated 25th November, 2020 whereby the Hon'ble Single Bench was pleased to, *inter alia*, notice that it will be open to BEL to seek setting aside of the application filed by Prakash for setting aside the Award in the event of default by Prakash in depositing the said sum of Rs.1,02,77,133/- being the balance undeposited amount of the Arbitral Award of Rs.1,52,77,133/-.

The Hon'ble Single Bench accordingly kept the application of BEL being GA/1/2019 for setting aside the application of Prakash being AP/684/2017, the latter being an application for setting aside of the Arbitral Award to appear next for joint consideration.

Having noticed the above orders in EC/236/2021 and the order of the Hon'ble Single Bench dated 25th November, 2020, this Court is of the view that with evidence of the deposit of Rs.1,02,77,133/- as furnished by Prakash in Court today, the matter may be now remanded to the Hon'ble Single Bench for ultimate consideration of GA/1/2019 and AP/684/2017 on merits.

It is needless to add that since GA/1/2019 and AP/684/2017 are to be considered on merits by the Hon'ble Single Bench, the Executing Court shall take notice of the pendency of the above applications and act appropriately, if and as approached by the parties.

APOT/133/2021 and **GA/1/2021** stand accordingly **disposed of**.

All parties are to act on a signed copy of this order.

(ANANDA KUMAR MUKHERJEE, J.)

(SUBRATA TALUKDAR, J.)