

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/222/2021
With
EC/246/2018
IA No: GA/1/2021
PAM DEVELOPMENT PVT. LTD.
VS.
UNION OF INDIA & ORS.

BEFORE:

The Hon'ble JUSTICE I. P. MUKERJI
AND
The Hon'ble JUSTICE KAUSIK CHANDA
Date : 10th January, 2022
[VIA VIDEO CONFERENCE]

Appearance :
Mr. Aniruddha Mitra, Adv.
Mr. Madan Mohan Roy, Adv.
Mr. Diptimoy Talukdar, Adv.
... for Appellant

Mr. Shankar Ranjan Sen, Adv.
Mr. Rabindra Nath Bag, Adv.
... for Respondent

The Court : In another appeal from an order in an application under section 34 of the Arbitration and Conciliation Act, where they were the appellant, the respondent/railways herein, deposited Rs.39 lacs with the Registrar, High Court, Original Side.

This appeal is by the contractor from an order of the learned single judge impliedly refusing them permission to withdraw the said amount upon furnishing a counter guarantee.

We were shown a decision of the Supreme Court made on 9th December, 2021, being Annexure H to the stay petition, where-against an award of Rs.9.47 crores, the deposited sum in appeal was Rs.5 crores in this court, which was allowed to be withdrawn by the highest court by the

respondent before it upon furnishing a counter guarantee. Mr. Mitra prays for a similar order.

Considering the above judgment and order of the Supreme Court dated 9th December, 2021, we direct that upon the appellant herein securing Rs.35 lacs by a bank guarantee issued by a nationalised bank to the satisfaction of the learned Registrar, Original Side by 31st January, 2022, the Registrar shall break the above deposit with him and hand over Rs.32 lacs to the appellant by transfer of the said amount to the bank account of the appellant electronically. The rest of the deposit shall be re-invested by the learned Registrar on the same terms and conditions as the original deposit.

We justify an additional amount of Rs.3 lacs as counter guarantee to make provision for interest that is likely to have accrued on the original sum deposited till the disposal of the appeal.

The appeal and the stay application after dispensation with all formalities are disposed of by this order.

(I. P. MUKERJI, J.)

(KAUSIK CHANDA, J.)