

IN THE HIGH COURT OF ORISSA AT CUTTACK
ARBA No.17 Of 2017
(Through hybrid mode)

Mahanadi Coalfields Ltd.. ***Appellant***

Mr. D. Mohanty, Advocate

-versus-

M/s. Bhatia Coal Washeries Ltd. ***Respondents***
and another

CORAM: JUSTICE ARINDAM SINHA

Order
No.
10.

ORDER
07.01.2022

I.A. No.28 of 2021

1. Mr. Mohanty, learned advocate appears on behalf of applicant. He submits, his client's I.A. no.28 of 2021 is application for extension of interim order dated 17th August, 2018, which the District Judge, by order dated 8th March, 2021 made in the execution case, deemed was vacated.
2. Order dated 17th August, 2018, if it can be called an interim order, is reproduced below.

“As an interim, it is directed that further proceeding in Execution Case No.4 of 2016 pending in the Court of the learned District Judge, Jharsuguda shall remain stayed subject to the petitioner depositing 50% of the amount, i.e. Rs.75,00,000/- (seventy five lakhs only) before the learned executing Court within a period of two weeks from today.”

It will be apparent from the quote that it is a conditional stay order. The condition, Court is given to understand, has been fulfilled. The

arbitration appeal is pending with security deposited for stay of operation of the execution. Said order dated 17th August, 2018 was passed under sub-section (3) in section 36 of Arbitration and Conciliation Act, 1996. Said sub-section (3) is reproduced below.

“(3) Upon filing of an application under sub-section (2) for stay of the operation of the arbitral award, the Court may, subject to such conditions as it may deem fit, grant stay of the operation of such award for reasons to be recorded in writing.

Provided that the Court shall, while considering the application for grant of stay in the case of an arbitral award for payment of money, have due regard to the provisions for grant of stay of a money decree under the provisions of the Code of Civil Procedure, 1908 (5 of 1908).”

Clause (c) in sub-rule (3) under rule 5 in order XLI, Code of Civil Procedure says as follows.

“(c) that security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.”

3. The stay operates.
4. The interim application is disposed of.

(Arindam Sinha)
Judge