

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.22063 of 2022
(Through hybrid mode)**

***M/s. National Aluminum Company Petitioners
Ltd., Angul and others***

Mr. M.K. Mishra, Senior Advocate
Mr. T. Mishra, Advocate

-versus-

***M/s. Maheswari Brothers Coal Ltd., Opposite Party
Hyderabad***

Mr. Debangshu Dinda, Advocate
Mr. S. Rout, Advocate

CORAM: JUSTICE ARINDAM SINHA

**ORDER
30.08.2022**

Order

No.

01.

1. Mr. Mishra, learned senior advocate appears on behalf of petitioners and submits, there be judicial review and interference with order dated 6th August, 2022, made by the Executing Court in directing his client to pay the decretal dues, failing which decree holder would be at liberty to file his clients' property details, for attachment and sale in execution.

2. He submits, his client filed for stay of the award/execution under section 36 in Arbitration and Conciliation Act, 1996. Decree holder did not file objection thereto. In the circumstances, there was error on part of the Court below in recording further order on 13th

May, 2022 that advocate of his client orally prayed to not press the application under section 36(3), to direct it to be put up on date fixed (24th June, 2022).

3. Mr. Dinda, learned advocate appears on behalf of decree holder and opposes the petition. He wants to rely on order sheet. That is not considered necessary.

4. Perused impugned order. Even accepting petitioners' contention that on 13th May, 2022 there was erroneous record made by the Court below in saying that petitioner did not want to press the petition under section 36(3), same was not dismissed. Instead there was direction to put it up 24th June, 2022, before 6th August, 2022 (date of impugned order). Petitioner had not been able to obtain stay order by then. On query from Court Mr. Mishra submits, section 36(3) application is still pending before the Court below.

5. Petitioner has liberty to produce this order before the Court below and pray for early hearing of its application made under section 36(3), on or before 8th September, 2022.

6. With above liberty to petitioner, the writ petition is disposed of.

(Arindam Sinha)
Judge