



A.No.4762 of 2021 in
Arb.O.P (Com.Div.) No.294 of 2021

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M.SUNDAR.,J

In the captioned 'Arbitration Original Petition' ['Arb.OP' for the sake of brevity] an award dated 28.04.2021 made by an 'Arbitral Tribunal' ['AT' for the sake of brevity] constituted by a sole Arbitrator in Arbitration Case No.KB S EU 193/2020' [hereinafter 'impugned award' for the sake of brevity] has been assailed.

2. Respondent No.1 Company and guarantor No.3 being two of the four respondents before AT have filed the captioned Arb.OP.

3. The petitioners in the main Arb.OP, who are applicants in the captioned application, shall be referred to as 'borrowers' for the sake of convenience / clarity and the first respondent in the captioned Arb.OP, who is first respondent in the captioned application, shall be referred to as 'said Bank' for the sake of convenience / clarity. Respondents 2 and 3 in the captioned application (A.No.4762 of 2021) have been given up and learned counsel on



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record for the borrowers has made an endorsement to this effect.

4. Mr.K.Suresh Babu, learned counsel for borrowers and Mr.R.Arunachalam, learned counsel for said Bank are before this Court.

5. Learned counsel for borrowers submits that said Bank has launched an Execution Petition on the basis of the impugned award. This Court is informed that this Execution Petition is E.P.No.3040 of 2021 on the file of X Assistant Judge's Court, City Civil Court, Chennai. This Court is also informed that this Execution Petition is scheduled to be next listed on 18.07.2022 before the executing Court.

6. Learned counsel for borrowers urges for urgent orders in the captioned application stating that some warrant proceedings are underway in the execution Court in the aforementioned Execution Petition.

7. Adverting to the impugned award, learned counsel for said Bank submits that though the impugned award is for a little over Rs.16.19 lakhs (Rs.16,19,835.34 to be precise) with future interest at the rate of 18% per



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annum, a consolidated sum of Rs.11.25 lakhs will suffice for full satisfaction qua impugned award. Learned counsel for said Bank also, on instructions, very fairly submits that a settlement in this regard has been arrived at / crystallized and borrowers have already paid Rs.2.25 lakhs. This means that, as of today, payment of Rs.9 lakhs by the borrowers will be full satisfaction qua impugned award. If the impugned award is executed pending captioned main Arb.OP which has to be heard out, an irreparable / irreversible legal injury will occur. As *prima facie* case has been made out, notice has been issued to the respondents in the captioned main Arb.OP. Therefore, *prima facie* case determinant qua stay petition is satisfied, besides this balance of convenience also operates in favour of grant of interim stay in the light of irreparable / irreversible legal injury factor alluded to in earlier portion of this paragraph.

8. In the light of the narrative thus far, there will be an order of interim stay as prayed for i.e., interim stay of all further proceedings pursuant to the impugned award and more particularly interim stay of all further proceedings in E.P.No.3040 of 2021 on the file of X Assistant Judge's Court, City Civil Court, Chennai on the following conditions:



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a) Applicants/borrowers shall deposit a sum of Rs.1,00,000/- [Rupees One Lakh only] on or before 01.07.2022 to the credit of main Arb.OP;

b) Applicants/borrowers shall deposit another sum of Rs.3,50,000/- [Rupees Three Lakh Fifty Thousand only] within six weeks from 01.07.2022 i.e., on or before 12.08.2022.;

c) If there is any default in the aforementioned conditions, captioned stay petition will stand dismissed without further reference to this Court.

9. Following clarifications are made for the sake of specificity:

a) In the light of the stated position of said Bank that a settlement has been crystallized, parties shall proceed with the same treating aforementioned deposits as part payments qua settlement notwithstanding this interim order and conclude the matter;



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b) If such settlement is arrived at, said Bank will be entitled to payment out.

c) If the stay petition is dismissed or if aforementioned settlement does not go through and main Arb.OP is heard out for any other reason, the contents of this order and more particularly full satisfaction qua Rs.11.25 lakhs will not operate. In other words, if the main Arb OP is to be heard out for one reason or the other, the same will be on its own merits and in accordance with law more particularly Section 34 of A and C Act uninfluenced by any observation recorded in this order. To put it differently, any observation recorded in this order will not be put against either of the parties if the main Arb OP is heard out;

10. This order is made in the light of peculiar facts and circumstances of this case and in the light of the fair stand taken by learned counsel for said bank and therefore, this shall not serve as a precedent for all and every matter of this nature.



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11. Captioned application disposed of in the aforesaid manner. There shall be no order as to costs.

List captioned main Arb OP on 16.08.2022.

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