

M/S BANSAL GENERATIONS LIMITED

.....Petitioner

Vs

PUNJAB STATE POWER CORPORATION LIMITED AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. M.S. Sidhu, Advocate
for the applicant-petitioner.

Mr. Abhilaksh Gaind, Advocate
for respondents No.1 and 2.

RAJ MOHAN SINGH, J.(Oral)

CM No.10595-CWP of 2022 in CWP No.10149 of 2021

For the reasons mentioned in the application, the same is allowed. Accompanying documents are taken on record, subject to all just exceptions.

Main case(s)

Vide this common order, CWP Nos.10147, 10149, 10151, 10153 and 10154 of 2021 are being decided. Since common issue is involved in all these petitions, therefore, facts are being taken from CWP No.10147 of 2021.

Petitioner has assailed the order dated 09.04.2021 passed by the Addl. District Judge, Patiala thereby allowing the petitioner to realise 75% of the amount deposited by respondents No.1 and 2 subject to furnishing bank guarantee.

Learned counsel for the petitioner submits that

condition of furnishing bank guarantee is onerous. Financial guarantee can only be issued by the Bank against 100% cash margin and Bank will also charge Rs.100/- per lakh for issuance of bank guarantee. Respondents No.1 and 2 have already deposited 75% of the awarded amount with the Court of Addl. District Judge, Patiala and have also deducted TDS over the total amount which is reflected in Form 26 AS of the Assessment Year 2021-2022.

Learned counsel for the petitioner further submits that petitioner is ready to furnish security in the form of immovable property to the satisfaction of court of Addl. District Judge, Patiala in order to realise the 75% of the amount deposited by respondents No.1 and 2. Learned counsel relies upon order dated 08.02.2016 passed by the Hon'ble Apex Court in SLP (CC) No.741 of 2016, wherein the decree holder was allowed to withdraw the entire amount on furnishing bank guarantee or immovable property to the satisfaction of the judgment debtor.

Learned counsel for respondents No.1 and 2 seeks to distinguish the aforesaid order on the ground that the said order was passed in SLP against the decision rendered in FAO.

In my opinion, this objection is untenable. The issue is with regard to release of the amount subject to some conditions.

In the instant case, petitioner is aggrieved by the order granting permission to withdraw the amount against bank

guarantee, whereas the petitioner is ready to furnish adequate security to the satisfaction of the Court of Addl. District Judge, Patiala as well as judgment debtors/respondents No.1 and 2.

In view of aforesaid position, I deem it appropriate to modify the impugned order dated 09.04.2021 passed by the Addl. District Judge, Patiala, thereby allowing the petitioner to withdraw 75% of the amount deposited by respondents No.1 and 2 on furnishing adequate security, indemnity bonds with one surety for double of the amount in question to the satisfaction of the Addl. District Judge, Patiala.

The aforesaid security, indemnity bonds and surety shall be verified by the Addl. District Judge, Patiala after due notice to respondents No.1 and 2.

In view of aforesaid, all the writ petitions are disposed of.

July 25, 2022

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Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No