

20.02.2023
Item No.12
Ct. No.7
CHC
(disposed of)

C.O. 541 of 2023

**Durgapur Freight Terminal Private Limited,
formerly Palogix Freight Terminal Private Limited
Vs.
Titagarh Logistics Infrastructure Private Limited
& ors.**

Mr. Probal Mukherjee, ld. Senior Advocate
Mr. Debjit Mukherjee,
Mr. Meghajt Mukherjee,
Mrs. Susmita Chatterjee,
Mr. Dibesh Dwivedi
...for the petitioner

Mr. S. Bose,
Ms. Ankita Chaudhury
...for the opposite parties

A direction to secure expeditious disposal of an interlocutory application, praying for stay, filed in connection with Misc. Case (Arbitration) No.10 of 2023 and I.A. No.1 of 2023, of learned Judge, Commercial Court, at Alipore, is the ultimate relief sought for in this case.

Mr. Mukherjee, learned Senior Advocate appearing for the petitioner/award debtor submits that there has been inappropriate calculation made in the award, and for which the petitioner cannot be made to deposit the entire awarded sum.

Mr. Mukherjee however, in his honest approach submits that without going into the details, the petitioner may be permitted to deposit entire awarded

sum before the court below upon reserving right of petitioner to challenge the same in connection with application under Section 34 of the Arbitration Act.

Mr. Mukherjee further submits that there is a chance of executing the award, and in that event, the entire exercise taken with respect to Section 34 of the Arbitration and Conciliation Act may be rendered infructuous.

Mr. Bose, learned advocate appearing for the opposite parties frankly submits that till such time there has been no execution levied with regard to the awarded sum, and in the meantime, the opposite parties will file opposition against the proposed stay.

That being the position, the revisional application stands disposed of directing the court below to hear out the stay application either on the schedule date (17th March, 2023), or if any reasons whatsoever, same could not be taken up, the application for stay may be peremptorily disposed of within fortnight thereafter, providing sufficient opportunity of hearing to either of the parties to this case, but without granting any unnecessary adjournment.

As it is disclosed by the parties to this case that there is no regular Presiding Officer posted in the concerned Commercial Court, so the learned Judge remaining-in-charge of Commercial Court at Alipore,

in Misc. Case (Arbitration) No.10 of 2023 and I.A. No.1 of 2023 is requested to take up stay application together with prayer for deposit of the entire awarded sum, subject to his convenience, preferably within fortnight from the date of this order, if necessary upon preponing the date by issuing notice to the othersides.

Learned advocate for the opposite parties, however assures this Court that objection in the meantime against the stay petition may be filed before the date is rescheduled with due notice upon the opposite parties.

Prayer for deposit of the entire awarded sum, without prejudice to the rights and contentions of the parties, may be considered by the court below, pending decision of application under Section 34 of Arbitration and Conciliation Act.

With this observation/direction, the revisional application stands disposed of.

Parties are directed to make communication of this order to the court below.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)