

C.O. 3544 of 2014

In the matter of : A.K. Enterprise

Mr. Amitabha Ghosh
Mr. Tapas Kr. Dey
Ms. Saswati Ghosh Sinha
Ms. Susmita Mondal For the petitioner

1. An arbitral Award was converted into a decree under Section 17 of the Arbitration Act, 1940 and with the decree, the petitioner has been carrying the burden to reap the profits. The decree was put into execution and judgement-debtor paid a sum of Rs. 1,79,000/- towards principal amount as awarded. The petitioner has a legitimate claim over the accrued interest.
2. Learned Executing Court on 30.7.2014 passed the impugned order that the statement of accounts since is under challenge in a Miscellaneous Case registered as Misc. Case No. 8 of 1998 by the judgement debtor, the prayer for the decree-holder was not adhered to and deferred till the disposal of the Misc. case.
3. It is submitted that Misc. Case No. 8/1998 was filed by the petitioner M/s. A. K. Enterprise under Section 14(2) and Section 17 of the Indian Arbitration Act, 1940 pursuant to which the decree was drawn up.
4. Copy of the decree passed in Misc. Case No. 8/1998 is taken on record.

5. When the order impugned is considered in the light of the decree passed it leaves no manner of doubt that the order impugned is perverse and should not have been passed by the learned Trial Court and, thus it is, quashed.
6. Learned executing Court is directed to take appropriate step for expeditious disposal of the execution proceeding.
7. The proceeding must be completed by December 23, 2023.
8. Lower Court Record, if received, be sent down to the learned Trial Court along with the copy of the order for information and necessary action.

(Siddhartha Roy Chowdhury, J.)