

OCD-12

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

AP/245/2023

THE PRESIDENT INSTITUTE FOR INDIAN LABOUR
VS
TERAI TEA COMPANY LIMITED

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 23rd June, 2023.

Appearance:

Mr. Anuj Singh, Adv.

Mr. Anil Dhar, Adv.

Mr. Debabrata Das, Adv.

Mr. Aman Agarwal, Adv.

...for the petitioner

Mr. K. Thaker, Adv.

Mr. Chayan Gupta, Adv.

Mr. Ratul Das, Adv.

Mr. Soumyajyoti Nandy, Adv.

Mr. Deepankar Thakur, Adv.

...for the respondent

The Court:- This is an application under Section 9 of the 1996 Act, post-award. The award is dated 27th February, 2023 and the petitioner was a claimant in the arbitration proceedings. The Tribunal consisted of three learned arbitrators. A computation of the heads under which the total amount was awarded to the petitioner is part of the application. The total awarded amount of Rs.42,23,910/- has been put under different heads on account of arrears of

rent, occupation charges, mesne profits, interest and costs on account of the respondent's share of the arbitration fees.

On a query raised by the Court, learned counsel appearing for the respondent/award-debtor submitted that the respondent has already put in excess of the amount which was to be paid to the Tribunal in the arbitration consisting of the tenancy agreement and the consolidated charges. Counsel further places the minutes of a sitting held on 22nd June, 2021, reflecting that the Tribunal had recorded that the fees and expenses of the members of the Tribunal will be fixed in accordance with the Fourth Schedule to the 1996 Act.

It is undisputed that the award-debtor has not made any payments after the passing of the award on 27th February, 2023. The argument that nothing is due from the award-debtor and that the award-debtor has already paid mesne profits of Rs.53,240/month is pre-Award. The other contentions of the award-debtor are on the validity of the Award which will be considered in the Section 34 petition.

AP/245/2023 is accordingly allowed and disposed of by directing the award-debtor to secure the sum of Rs.42,23,910/-, being the awarded amount by way of a bank guarantee from a reputed bank which is a constituent of the Reserve Bank of India. The bank guarantee shall be furnished to the Registrar, Original Side of this Court within three weeks from date.

Learned counsel appearing for the award-debtor hands over two cheques of Rs.4,25,920/- and Rs.1,59,720/- to the Advocate-on-Record of the petitioner in Court today. The respondent shall hence secure the amount of

Rs.36,38,270/- in the manner as directed above. Learned counsel appearing for the petitioner accepts the cheques without prejudice to the rights and contentions of the award-holder.

(MOUSHUMI BHATTACHARYA, J.)

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