

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

AP/467/2022

UNION OF INDIA
VS
M/S RAITANI ENGINEERING WORKS PVT LTD

Wt60

EC/153/2022

M/S RAITANI ENGG. WORKS PVT LTD.
VS
THE UNION OF INDIA AND ANR

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 28th August, 2023.

Appearance:

Mr. P.K. Drolia, Adv.

Mr. Santosh Kr. Pandey, Adv.

...for the Union of India

Mr. Rachit Lakhmani, Adv.

Mr. Avishek Das, Adv.

...for the respondent

The Court:- Re: AP/467/2022

The petitioner seeks stay of an Award dated 12th February, 2016. The Award was approximately for Rs.1.96 crores. The petitioner admittedly filed an application under Section 34 of the Act within time in 2016 but did not take

any steps to have the matter considered by the Court even though the petitioner was the award-debtor.

The petitioner filed the present application for stay of the Award on 24th June, 2022. The awarded amount has become approximately Rs.3.43 crores as of 8th August, 2023. A calculation sheet prepared on behalf of the award-holder has been shared with learned counsel appearing for the award-debtor (petitioner before the Court in both the Sections 34 and 36 applications). The calculation has been made on the basis of simple interest. The awarded amount was Rs.1.96 crores plus interest at 10% p.a.

The only consideration before a Court in a Section 36 application is in what manner an award-debtor will secure the awarded amount when the award is for payment of money. This Court is of the view that since the petitioner has not taken any steps for the last six years from 2016 to 2022, when the petitioner filed the application for stay of the Award, the petitioner must secure the sum of Rs.3.43 crores as of today. The awarded amount of 1.96 crores has given to 3.43 crores today and the award order cannot be made to suffer the inaction and laches on the part of the petitioner

The petitioner will hence furnish half of amount of Rs.3.43 crores by way of cash deposit and the remaining 50% by way of a bank guarantee both of which should be furnished to the Registrar, Original Side of this Court.

The petitioner shall furnish the security as directed above within eight weeks, i.e., by 29th November, 2023, as prayed for. The Award shall remain stayed from the date following the petitioner securing the awarded amount as

directed. The respondent award-holder shall be at liberty to execute the Award on and from 30th November, 2023 if the petitioner defaults on these directions,.

Even though learned counsel appearing for the petitioner seeks certain directions from the Court on the Section 34 application, this Court is not inclined to do so since the determination for hearing the Section 34 application is with a co-ordinate Bench.

AP/467/2022 is disposed of in terms of the above.

Re: EC/153/2022

This is the execution application filed by the award-holder in relation to an Award dated 12th February, 2016.

Learned counsel appearing for the award-holder submits that the award-debtor has not filed its affidavit of assets till date.

List this matter on 30th November, 2023.

(MOUSHUMI BHATTACHARYA, J.)

bp.