

OD-9

ORDER SHEET
EC/236/2022
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

SREI EQUIPMENT FINANCE PRIVATE LTD.

VS

SAI KRISHNA IMPEX AND ANR.

BEFORE:

The Hon'ble JUSTICE SHEKHAR B. SARAF

Date: 23rd February, 2023

Appearance:

Mr. Swatarup Banerjee, Adv.

Ms. Archana Chowdhury, Adv.

...for the petitioner

The Court:

1. I have heard the counsels appearing on the behalf of the petitioner.
None appeared on behalf of the respondents.
2. This is an application under Section 36 of the Arbitration and Conciliation Act, 1996 seeking execution of an arbitral award dated 25th February, 2011.
3. A hire purchase agreement dated June 22, 2007 bearing No. LOY-388 (HL0013718) was executed by and between the petitioner/award holder

and the respondents/ award debtors wherein respondents were provided with financial assistance by the petitioner for purchase of a commercial vehicle.

4. The respondents started defaulting payment of monthly instalments from July 01, 2008 and thereafter, disputes arose between the parties. Pending arbitral reference, this Court in a Section 9 application appointed a Receiver who took possession of the said commercial vehicle, and pursuant to subsequent orders of this Court, the same was sold for a sum of Rs. 39,00,000/-.
5. After deduction of receiver's remuneration and necessary bank charges, cheques worth Rs. 38,71,555/- dated May 19, 2011 and Rs. 9326/- dated December 20, 2011 were handed over by the receiver to the award holder. The aforesaid sale proceeds are lying in several separate fixed deposit accounts in compliance with the orders of this Court. As per the fixed deposit details annexed with the execution application, the total amount along with interest as on May 09, 2022 is approximately Rs. 77,43,856/-.
6. The counsel on behalf of the petitioner prays for execution of the arbitral award by way of encashment of the aforesaid fixed deposit accounts. He also submits that a Section 34 challenge being AP No. 551 of 2011 has already been dismissed by this Court, and that at

present there is no Section 34 or Section 36(2) application pending before this Court.

7. From the records of this case, it appears that the respondent was given multiple opportunities to appear and plead its case before this Court. Service in terms of Order XXI Rule 22(1) of the Civil Procedure Code, 1908 has also been carried out by this Court.
8. In view of the above facts, nothings stops the petitioner from enjoying the fruits of the arbitral award. I hereby grant liberty to the petitioner to encash the aforesaid fixed deposit accounts along with the interest accrued thereon.
9. Accordingly, this execution application is disposed of. There shall be no order as to costs.
10. Urgent photostat-certified copy of this order, if applied for, should be made available to the parties upon compliance with requisite formalities.

(SHEKHAR B. SARAF, J.)