

OCD 28 & 29

ORDER SHEET

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

IA NO. GA/1/2023
RVWO/42/2023
THE WEST BENGAL SMALL INDUSTRIES DEVELOPMENT
CORPORATION LTD (WBSIDC)
VS
KAUSHALYA INFRASTRUCTURE
DEVELOPMENT CORPORATION LTD (KIDCO)
AND
IA NO. GA/1/2023
AP/174/2022
THE WEST BENGAL SMALL INDUSTRIES DEVELOPMENT
CORPORATION LTD (WBSIDC)
VS
KAUSHALYA INFRASTRUCTURE
DEVELOPMENT CORPORATION LTD (KIDCO)

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 5th September, 2023.

Appearance:

Mr. Ashok Kr. Banerjee, Adv.
Mr. Kamal Kr. Chattopadhyay, Adv.
Mr. Debabrata Banerjee, Adv.
Mr. Tanjir Ali, Adv.
...for the petitioner

Ms. Manju Bhutera, Adv.
Ms. Shreya Choudhury, Adv.
...for the respondent

The Court: This is an application for modification of the directions
contained in the judgment passed by this Court on 26th July, 2023.

The judgment was passed in an application filed by the award-debtor for unconditional stay of operation of an Award dated 22nd April, 2019. The application was disposed of by directing the petitioner-award-debtor to secure the awarded amount of Rs.13,06,16,243.00 with the Registrar, Original Side within four weeks from the date of the judgment; 50% of which was to be provided by way of cash deposit and the remaining 50% by way of a bank guarantee. Both the components were to be put in within the time directed. The Award was to be stayed from the date on which the award-debtor complies with the directions passed in the judgment.

The award-debtor thereafter filed an application for review of the judgment which was considered by the Court on 31st August, 2023 and ultimately not pressed by the award-debtor. The order passed on 31st August, 2023 records the aforesaid fact.

The award-debtor has now come up with the present application for modification of the judgment with the plea that the award-debtor be allowed to put in 50% of the awarded amount also by way of bank guarantee which means that the award-debtor will put in the entire amount by way of a bank guarantee. The reason given is that the award-debtor, being a Government company, is not able to handle the cash upward of Rs.20,000/-. The award-debtor-applicant has also pleaded in paragraph 5 that the award-debtor does not have the

infrastructure of counting and carrying such a huge amount of money for depositing before the Registrar of this Court.

The pleading in paragraph 5 of the application is found to be incredible, to say the least. The award-debtor is a State Government enterprise and the reason given is, hence, found to be completely untenable.

Upon considering the submissions made on behalf of the parties, this Court is not inclined to modify the directions contained in the judgment to the effect of permitting the award-debtor to put in anything else but cash deposit as was directed in the judgment. The Court, at best, can extend the time for the award-debtor to put in the 50% cash component of the awarded amount.

GA/1/2023 is, accordingly, disposed of by directing the award-debtor to put in the 50% cash amount by 26th September, 2023. The Award shall remain stayed on and from 27th September, 2023. The award-holder will be at liberty of executing the Award in the event the award-debtor does not comply with these directions.

The Court is further informed that the award-debtor, contrary to the judgment, has not even put in the bank guarantee as was directed. The bank guarantee consisting of 50% of the awarded amount shall be deposited with the Registrar, Original Side of this Court within 72 hours from today.

RVWO/42/2023 along with the connected application are also disposed of in view of this order.

(MOUSHUMI BHATTACHARYA, J.)

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