

OCD-9, 10, 11 & 12

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

AP/784/2023

DEEPAK BHARGAVA AND ORS.
Vs.
JAGRATI TRADE SERVICES LIMITED & ORS.

WITH

AP/664/2023
IA NO: GA/1/2023

JAGRATI TRADE SERVICES PVT LTD.
VS
DEEPAK BHARGAVA AND ORS.

WITH

AP/777/2023

DEEPAK BHARGAVA AND ORS.
Vs.
JAGRATI TRADE SERVICES LTD. & ORS.

WITH

AP/783/2023

JAGRATI TRADE SERVICES PVT LTD.
VS
DEEPAK BHARGAVA AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 18th December, 2023.

Appearance:

Mr. Tilak Bose, Sr. Adv.
 Mr. Paritosh Sinha, Adv.
 Mr. Anubhav Sinha, Adv.
 Mr. K.K. Pandey, Adv.
 Mr. Zeeshan Haque, Adv.
 Mr. Hemant Tiwari, Adv.
 Ms. Enakshi Saha, Adv.

Mr. Rudrajit Sarkar, Adv.
 Mr. Debangshu Dinda, Adv.
 Mr. Jai Kr. Surana, Adv.
 Ms. Arundhati Barman Roy, Adv.
 Ms. Muskan Bengani, Adv.

The Court: The last order dated 6th December, 2023 records that the Court would consider modifying the order dated 13th September, 2023 whereby the petitioners/ award-debtors were restrained from operating its individual or collective bank accounts without keeping aside a sum of approximately Rs.26.34 crores. The said order was made in an application under Section 9 of the 1996 Act by the award-holders.

Learned counsel appearing for the award-debtors submits that the amount of Rs.10,34,82,336.25 has been deposited by the award-debtors to the Registrar, Original Side of this Court in two tranches on 8th and 12th December, 2023.

Learned counsel appearing for the award-debtors accordingly seeks modification of the order dated 13th September, 2023.

The order dated 13th September, 2023 put a restraint on the award-debtors from dealing with their bank accounts without keeping aside a sum of Rs.26,34,82,336.25. Since the award-debtors have now secured the entire amount by way of demand drafts furnished on various dates to the Registrar,

Original Side of this Court, the order dated 13th September, 2023 stands vacated.

AP/664/2023, which was the respondents/ award-holders' application, is dismissed for the same reason.

The award-debtors' application for modification of this order being GA/1/2023 is also disposed of.

The award-debtors' application under Section 36(2) of the Act is also disposed of by stay of the operation of the impugned Award. This is in view of the award-debtors securing the awarded amount, as recorded above.

The Court is also informed that both the parties in AP/777/2023 and AP/783/2023 have filed applications for setting aside of the Award with delay since the petitioners/ award-debtors in AP/777/2023 had applied for correction of the Award under Section 33 of the 1996 Act. Learned counsel appearing for the parties, however, say that the delay in view of the proceedings before the learned Arbitrator for correction of the Award, may be condoned.

Upon hearing counsel and the decisions of the Supreme Court and the High Courts on the effect of Section 33 of the 1996 Act on the issue of limitation, this Court is of the view that the delay may be condoned.

The parties shall file their respective Affidavits-in-Opposition in both the arbitration petitions within two weeks after the vacation. Replies to be filed within a week thereafter.

List both the arbitration petitions on 29th January, 2024.

The parties shall also be at liberty of filing a common set of informal paper-books for the convenience of the Court.

(MOUSHUMI BHATTACHARYA, J.)

sg.