

ORDER SHEET
AP/749/2023

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

KOLKATA METRO RAIL CORPORATION LIMITED
Versus
ITD-ITD CEM JOINT VENTURE

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 16th October, 2023.

Appearance:

Mr. Jishnu Chowdhury, Adv.
Mr. Aritra Basu, Adv.
Ms. Sreya Basu Mallick, Adv.
Mr. Ankit Dey, Adv.
Ms. Surabhi Sarawgi, Adv.
...for the petitioner

Mr. Jishnu Saha, Sr. Adv.
Ms. Hashnuhana Chakraborty, Adv.
Mr. Amal Kumar Ghosh, Adv.
Ms. Neelina Chatterjee, Adv.
...for the respondent

The Court: This is an application for stay of an Award dated 6th August, 2023. The concluding part of the Award shows that the respondent, who was the claimant in the arbitration, was awarded a sum of Rs.62,86,70,229/- as against a claim of approximately Rs.115 crores.

The petitioner/award-debtor before the Court also had a counter-claim which was dismissed by the arbitral tribunal.

This is not the stage where the Court can or will go into the reasonableness or the legality of the impugned Award. The only consideration is whether circumstance exists for granting an order of stay of the operation of the Award under Section 36(3) of the 1996 Act.

Learned counsel appearing for the petitioner/award-debtor intends to secure the Award in the manner as directed by the Court. As is the usual practice, since the Award is of Rs.62,86,70,229/-, the award-debtor will secure the awarded amount, 50% by way of cash and 50% by way of a bank guarantee. Hence, the award-debtor will put in cash deposit of Rs.31,43,35,114/- with the Registrar, Original Side within 45 days from today. A bank guarantee of the same amount will also be put in by the award-debtor. Since the Registrar, Original Side will have to complete certain formalities with regard to the bank guarantee, the award-debtor shall put in the bank guarantee of the amount stated above within 8th December, 2023. The award shall be deemed to be stayed after compliance of the above directions.

The award-holder (claimant in the arbitration) seeks to withdraw the cash deposit of the amount stated above.

This Court sees no impediment in making that order since the claim of the award-holder is of 2020 and the award-holder has not been able to execute the Award till date. The award-holder shall accordingly be at liberty to withdraw the amount of Rs.31,43,35,114/- a day after the award-holder furnishes a bank guarantee for an equivalent amount with the Registrar, Original Side of this Court.

AP/749/2023 is accordingly disposed of in terms of the above.

It is made clear that the parties before this Court will not take any steps to give effect to any interim orders passed by the Tribunal.

(MOUSHUMI BHATTACHARYA, J.)