

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 18 OF 2023

THE EXECUTIVE ENGINEER WORKS ... Petitioner.
DIVISION III, THR. SUNIL KARMALKAR
VS
PREMIER BUILDERS GOA PVT. LTD. REP.
THR. ITS MANAGING DIRECTOR DOMNIC ...Respondent
ISSAC.

Ms. S. Kamat, Addl. Govt. Advocate for the Petitioner.
Mr. J. Ramaiya, Advocate for the Respondent.

CORAM: B. P. COLABAWALLA, J
DATED: 10th JANUARY 2023

P.C.

1. The above Writ Petition is filed seeking to challenge the impugned order dated 23rd November 2021 passed by the learned District Sessions Court, South Goa, Margao in Execution Application No.33/2020.

2. In the above matter, an Arbitration Award was passed against the Petitioner herein. As far as claim no.1 is concerned, the Arbitral Tribunal allowed the claim in the sum of Rs.17,80,565/- (Rupees seventeen lakhs eighty thousand five hundred sixty-five only) and Rs.3,56,113/-(Rupees three lakhs fifty-six thousand one hundred and thirteen only) with interest at the rate of 10% from 25th April 2019 till payment.

3. The aforesaid award has attained finality as the challenge to the same was dismissed because the delay was not condoned. This Award was thereafter put in execution, in which, the impugned order was passed. The point for determination in the impugned order was whether execution can be allowed and Judgment Debtor can be directed to deposit the decretal amount. While determining the aforesaid point, the Executing Court (Sessions Court, South Goa at Margao) answered the point in the affirmative and directed the Judgment Debtor to pay the decretal amount to the Decree Holder within a period of 30 days from 23rd November 2021. In case the amount was not deposited, the Judgment Debtor was also directed to file an affidavit of the list of assets.

4. I am informed that the amount has not been paid but the list of assets has been furnished. The argument canvassed before me today is that the Executing Court has gone beyond the Award because Award does not spell out whether interest at the rate of 10% is to be paid on a yearly basis or otherwise. In other words, it was argued that the Award only grants 10% interest and therefore, the Executing Court could not have specified or mandated that it is yearly interest from 25th April 2019.

5. I have heard learned Counsel appearing on behalf of the Petitioner on this aspect. I find absolutely no merit in this contention.

It is true that the Award does not specify whether the interest ought to be paid yearly or monthly or in any other form. The Award only says that the Claimant is entitled to the interest at the rate of 10% from 25 April 2019 till payment. This being the position, in my view, the Executing Court correctly opined that since the Arbitrator has not specified whether interest is to be calculated monthly or yearly, it is understood that the interest Awarded is yearly.

6. Having gone through the impugned order, I find absolutely no infirmity in the same which would require me to interfere under Article 227 of the Constitution of India.

7. In these circumstances, the above Writ Petition is dismissed with a direction to the Petitioner to pay the decretal amount to the Respondent within a period of two months from today failing which the concerned Officer shall be hauled up for contempt of Court.

8. The Writ Petition is accordingly disposed of. There shall be no order as to costs.

9. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on the production by fax or email of a digitally signed copy of this order.

B. P. COLABAWALLA, J