



A.No.5214 of 2023 etc.

Application Nos.5214 to 5216 of 2023
in
A.No.3405 of 2023
in
EP.DR.No.34492 of 2023

ABDUL QUDDHOSE, J.

This application has been filed by the Judgment Debtor aggrieved by the order of the learned Master dated 05.09.2023 passed in A.No.3405 of 2023 in E.P.DR.No.34492 of 2023. By the impugned order, the applicant was directed to disclose the assets owned by them pursuant to an application filed by the respondent/Decree Holder under Order 21 Rule 41(2) of CPC.

2. The primary ground of challenge in this application is that all applications seeking for interim reliefs including the application filed in the Execution Petition will have to be filed only before the Commercial Division of this Court. Therefore, the application filed by the respondent before the learned Master seeking for disclosure of assets is not maintainable. According to the applicant/Judgment Debtor, erroneously the learned Master has allowed the application filed by the respondent/Decree Holder.



A.No.5214 of 2023 etc.

WEB COPY

3. It is settled law that all applications including the application filed in the Execution Petition can be adjudicated only by the Commercial Division of this Court and cannot be adjudicated by the learned Master as was done in the instant case. The very same issue was raised in a judgment rendered by another learned Single Judge of this Court in *Millenium Steels Vs. Ind Barath Thermal Power Limited [2022 (1) CTC 1]*, wherein it has been categorically held the the Execution Petition under the Commercial Courts Act, 2015, will have to be heard only by this Court and not by the learned Master.

4. The learned counsel for the respondent/Decree Holder has also not raised any serious objection to the well settled proposition.

5. In view of the settled law, this Court is of the considered view that the order passed by the learned Master in respect of a commercial dispute directing the applicant/Judgment Debtor to disclose their assets is an erroneous order, as the said application filed by the respondent/Decree Holder is not maintainable before the learned Master as it ought to have



A.No.5214 of 2023 etc.

been filed only before the Commercial Division of this Court.

Accordingly, the impugned order of the learned Master dated 05.09.2023 passed in A.No.3405 of 2023 in E.P.D.No.34492 of 2023 is hereby set aside and Application No.5214 of 2023 is allowed.

6. Admittedly, the arbitral award has been passed in favour of the respondent/Decree Holder. However, both the applicant as well as the respondent have challenged the very same arbitral award by filing two separate OPs under Section 34 of the Arbitration and Conciliation Act, 1996, which are pending adjudication. No stay has also been obtained by the applicant/Judgment Debtor against the arbitral award passed in favour of the respondent/Decree Holder. Though OP has been filed seeking to challenge the said arbitral award, the respondent/Decree Holder is only seeking for disclosure of assets and nothing else. While that be so, this Court is of the considered view that no prejudice would be caused to the applicant if they are directed to disclose their assets as prayed for in the earlier Application No.3405 filed before the learned Master by the respondent.



A.No.5214 of 2023 etc.

7. After allowing this application, in view of the reasons stated supra, the applicant/Judgment Debtor is directed to disclose their assets as prayed for by the respondent/Decree Holder in A.No.3405 of 2023, which was filed before the learned Master erroneously, within a period of four weeks from the date of receipt of a copy of this order. Since the primary ground of challenge in Application No.5214 of 2023 is with regard to maintainability of the application filed by the respondent before the learned Master on the ground that only the Commercial Division is having the jurisdiction to entertain such an application, the above mentioned direction is issued by this Court. Consequently, connected application Nos.5215 and 5216 of 2023 are closed.

09.10.2023

rkm



WEB COPY



A.No.5214 of 2023 etc.

ABDUL QUDDHOSE, J.
rkm

Application Nos.5214 to 5216 of 2023
in
A.No.3405 of 2023
in
EP.DR.No.34492 of 2023

09.10.2023