

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

AP-COM/60/2024

M/S CHOLAMANDALAM
INVESTMENT AND FINANCE
COMPANY LIMITED
VS
GOLD STAR INTERNATIONAL AND ANR

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 1st April, 2024.

Appearance:
Mr. Aritra Basu, Adv.
Ms. Pooja Sett, Adv.

The Court: This is a post award application under Section 9 of the Arbitration and Conciliation Act, 1996.

The petitioner had entered into a Business Loan Agreement with the respondents on 16 February, 2022 whereby the petitioner advanced a sum of Rs.20,00,000/- to the respondent. No security interest was created in respect of the said loan. The respondents after paying the monthly installments for the initial few months, failed and refused to make any further payments in terms of the agreement.

Under such circumstances, the petitioner issued a notice dated 26 May, 2023 in terms and conditions of the Business Loan Agreement calling upon the respondents to make payments towards its outstanding dues.

The petitioners also made several attempts to resolve the disputes with the respondents. However, the respondents deliberately, neglected and failed to comply with any such requests and refused to make any further payments.

Accordingly, the petitioner invoked the arbitration clause and referred the matter to an Arbitrator seeking resolution of the said disputes between the parties.

By an award dated 7th November, 2023, the petitioner was awarded an amount of Rs.18,84,556/- alongwith interest. There has been no challenge to the said award and the award has attained finality. In the meantime, the petitioner apprehends that the respondents will siphon or transfer all the funds lying in the bank accounts, particulars whereof appear at para 12 of the application in order to render the award nugatory and infructuous.

In this background, the petitioner has filed this application seeking interim protective reliefs. Despite service, the respondents remain unrepresented. In view of the aforesaid, the petitioners have been able to make out a strong *prima facie case* on merits. The balance of convenience and irreparable injury is also in favour of orders being passed as prayed for.

In the foregoing circumstances, there shall be an order of injunction restraining the respondent from dealing with or transferring or withdrawing any amount kept in the above accounts without securing the principal awarded amount of Rs.18,84,556/-.

The petitioner also undertakes to file an application for execution of the award within a month from date. In default, the interim order stands vacated.

In view of the aforesaid directions, AP-COM/60/2024 stands disposed of.

Supplementary Affidavit filed on behalf of the petitioner be kept with the records.

(RAVI KRISHAN KAPUR, J.)