

OD-12

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/62/2024
WITH EC/410/2019
IA NO: GA/1/2024

IDFC FIRST BANK LIMITED
VS
MR DALIA SENGUPTA AND ORS

BEFORE:
The Hon'ble JUSTICE SOUMEN SEN
AND
The Hon'ble JUSTICE BISWAROOP CHOWDHURY
Date : 20th November, 2024.

Appearance:

Mr. Ritoban Sarkar, Adv.
Mr. Ranjit Singh, Adv.
Ms. Pooja Sett, Adv.
...for the appellant.

Mr. Abhidipto Tarafdar, Adv.
Mr. Ritoban Sarkar, Adv.
Mr. Ranjit Singh, Adv.
Ms. Pooja Sett, Adv.
Mr. Pranit Biswas, Adv.
Mr. Ratul Deb Banerjee, Adv.
... for the appellant.

Mr. Kallol Guha Thakurata, Adv.
Mr. Md. Wasim Rahaman, Adv.

Mr. Tilak Mitra, Adv.
Mr. Sushmita Pal, Adv.
Mr. Jamuna Saha, Adv.
... for the respondents.

The Court:- Affidavit of service filed in Court be kept with the record.

We have heard learned Counsel for the parties. It appears that the execution application was dismissed as the award holder has failed to indicate that regular payments have been made by the award debtors even during the pendency of the execution proceeding and this fact has not been brought on record by the award holder. The fact that the award debtors have made payments even during the pendency of the execution proceeding was disclosed in a supplementary affidavit filed by the award debtors on 18th December, 2023. When the impugned order was passed no response to the affidavit was filed by the award holder and on that ground the execution petition was dismissed. Although it was an obligation on the part of the award holder to bring full facts to the notice of the Court even in the absence of the award debtors as the award holder is only entitled, it seems that the award holder was not candid in disclosing the payments made and full disclosure of the accounts have not been made. This conduct cannot be appreciated for which we impose cost upon the award holder/appellant for Rs.10,000/- to be paid to the State Legal Services Authority within one week from date and the said amount shall be utilized for recalling awareness. Subject to deposit of the said amount the execution application shall revive. Full disclosure of all the payments made shall be filed before the executing Court in the form of an affidavit upon prior service to the learned Counsel for the award debtors. Since then the time of the executing Court to record satisfaction of the award we are

exercising our discretion to restore the execution application with the aforesaid direction.

The appeal and applications stands disposed of.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)

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