

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

APOT/374/2024
WITH
AP-COM/830/2024
IA NO: GA-COM/1/2024

M/S NIHAL PRASAD INDUSTRIES LLP
VS
KOTAK MAHINDRA BANK LIMITED

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 2nd December, 2024.

Appearance:

Mr. Amitava Mukherjee, Sr. Adv.

Ms. Arpita Saha, Adv.

Ms. Ankita Ghosh, Adv.

...for the appellant/petitioner

Mr. Avishek Guha, Adv.

Ms. Enakshi Saha, Adv.

...for the respondent

The Court: Learned counsel for the respondent bank has submitted a statement wherefrom it appears that a sum of Rs.1,02,371/- is due and payable towards hire charges.

Mr. Amitava Mukherjee, learned senior counsel appearing on behalf of the petitioner, has submitted that the entire amount has been paid on or before 28th November, 2024 and his client undertakes to pay the future instalments in time.

On such consideration, we waive the claim of the bank towards penal charges. However, in case of future default, the bank shall be entitled to the amount of Rs.15,000/- approximately towards penal charges.

The petitioner shall pay the parking charges on and from 19th July, 2024 till the date of taking possession in terms of this order.

It will be the obligation of the respondent to pay the parking charges for the earlier period, since it was seized on 29th March, 2024, without any order of any Court and the arbitration proceeding has not commenced.

In view of the aforesaid order, nothing remains to be decided in the application under Section 9 of the Arbitration and Conciliation Act, 1996. Accordingly, by consent of the parties, AP-COM/830/2024 is treated as on the day's list and disposed of along with the appeal and the application.

The Department is directed to make the appropriate endorsement with regard to the disposal of the appeal and the application including AP-COM/830/2024.

This order shall be communicated to the Registrar, IT for information.

The payment details along with the proof of payment made over to this Court are taken on record.

We further record that copies of the said documents have been handed over to the learned counsel appearing on behalf of the bank.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)