

OD-1-2

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

AP/666/2019

DIPIKA JHUNJHUNWALA AND ANR.
VS
SYLEE TEA ESTATE PVT. LTD. AND ANR.

EC/280/2022

SYLEE TEA ESTATE PVT LTD
VS
RAMA DEVI AGARWAL AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 27th September, 2024

Appearance:
Mr. Abhirup Chakraborty, Adv.
...for award holder.

Mr. Syed E. Huda, Adv.
Ms. Amrin Khatun, Adv
...for award debtors.

The Court:- It transpires from the report of the Registrar, Original Side as well as a letter apparently issued to the parties by the Registrar, that an issue has cropped up as to implementation of the order of this Court dated August 20, 2024. The present execution case as well as the connected application under Section 34 of the Arbitration and Conciliation Act, 1996 arise out of a money claim against the predecessor-in-interest of the award debtors. Upon the demise of the original respondent in the arbitral proceeding, the present award debtors, respectively the widow and the daughter of the original respondent, were impleaded in his place. The award was passed against them.

The matter was subsequently resolved as per settlement between the present parties, in terms of which the amount which had been secured in

connection with the execution case/ Section 34 application was to be split between the parties in terms of the modality as stipulated in paragraph 12 of the Terms of Settlement.

Learned Counsel for the award debtors submits that the amount which was deposited as security and is now to be split was sourced originally from the exclusive bank account of the award debtor no. 2, the widow of the original respondent in the arbitral proceeding. As such, there cannot be an impediment in the said award debtor no. 2 being disbursed the entire share of the award debtors.

Upon considering the submission of learned Counsel, it transpires that in the event the situation was the reverse and the award had been passed in favour of the award debtors, a question might have arisen as to entitlement being split in 50:50 ratio between the award debtors inter se. However, since the award debtors themselves are to pay the award holder, the money for which came from the exclusive bank account of the award debtor no. 2, it is the award debtor no. 2 to whom the entitlement of the award debtors as per the settlement should be reverted back.

Accordingly, the Registrar, Original Side is directed to disburse the respective shares of the parties in terms of the order dated August 20, 2024. The share of the award debtors shall be disbursed in favour of the award debtor no. 2, namely Dipika Jhunjunwala.

(SABYASACHI BHATTACHARYYA, J.)