

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/448/2023
WITH EC/47/2017
IA NO. GA/1/2024

IRCON INTERNATIONAL LIMITED.
VS.
MBL INFRASTRUCTURE LIMITED

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date: 18th November, 2024.

Appearance:

Mr. ArnabChakarabarty, Adv.

Mr. PragyaBhowmick, Adv.

...for the Appellant.

Mr. Ratnanka Banerjee, Sr. Adv.

Mr. ShaunakMitra, Adv.

Ms. Sristi Barman Roy, Adv.

Ms. PrithaBasu, Adv.

Ms. NairanjanaGhosh, Adv.

Mr. DebarthaChakroborty, Adv.

...for the Respondent.

The Court :It is submitted on behalf of the award-holder that the submission made on behalf of the award-debtor that in view of the resolution plan there is no amount which is at present due and payable to the award-holder has been incorrectly recorded as there was no concession on the part of the award-holder.The award holder was not given an opportunity to file an affidavit.

It is further submitted that irrespective of the resolution plan, the award-holder's right has not been extinguished and the award-holder is entitled to execute the award which has attained finality in the meantime. Mr. Ratnanka Banerjee, learned Senior Counsel appearing on behalf of the award-debtor, however, disputed that such submission on behalf of the award holder has been wrongly recorded.

It appears that the execution application was dismissed on the basis of a concession made on behalf of the award-holder that no amount is due and payable to the award-holder under the resolution plan which, in fact, has now been disputed.

It is settled law that if any fact is incorrectly recorded in the order, the remedy lies in preferring an application for review or recalling of the said order on such ground.

Under such circumstances, we dispose of the appeal and the application by granting liberty to the appellant to take appropriate steps in accordance with law.

In the event any such application is made, we request the learned Single Judge to decide both the issues after giving a reasonable opportunity to the award-holder as the right of the award-holder to enjoy the fruits of the award is

likely to be seriously prejudiced by any order passed in the execution proceeding denying such relief.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J)

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