

OCD-11

ORDER SHEET

AP-COM/35/2023

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

INDIAN RAILWAYS
VS
M/S. FERRO CRAFTS

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 15th January, 2024.

Appearance:

Mr. Partha Ghosh, Adv.

Mr. A. K. Datta, Adv.

...for the petitioner

Mr. Debajyoti Basu, Adv.

Mr. Diptomoy Talukder, Adv.

Ms. Chanchala Chatterjee, Adv.

..for the respondent

The Court: The application is for stay of an Award dated 21st January, 2019.

Learned counsel appearing for the petitioner submits that despite the petitioner having put in the awarded amount of Rs.1,88,57,064.36 with the State Bank of India on 26th August, 2023 pursuant to a direction passed by a Co-ordinate Bench on 23rd November, 2021, there is no formal order of stay of the Award till date.

Learned counsel appearing for the respondent/award-holder submits that the petitioner has taken several points of challenge against the Award

which is not permissible under the 1996 Act and has also pleaded unconditional stay of the Award.

The first order in the series of orders placed before the Court is an order of 23rd November, 2021 by a Co-ordinate Bench where the petitioner/award-debtor was directed to secure the sum mentioned above by creating a separate interest bearing fixed deposit in a nationalised bank. The second order which was passed by this Court on 21st June, 2023 directed the petitioner to file an affidavit enclosing documents to show that the awarded amount had been secured.

The respondent challenged the order passed by the Co-ordinate Bench on 12th July, 2023 whereby the learned Single Judge had recorded that the respondent's Execution Case stood disposed of as infructuous in view of the award-debtor securing the amount. The Division Bench noted in its order dated 28th August, 2023 that the Award had not been stayed by the first order dated 23rd November, 2021 despite the petitioner securing the amount and directed that the Award shall remain stayed for three months and also gave an opportunity to the award-debtor to regularise the deposit by obtaining an order from the appropriate Court.

Considering the fact that the petitioner/award-debtor has already secured the amount on 26th August, 2023 with the State Bank of India, AP-COM/35/2023 is allowed and disposed of by directing the petitioner/award-debtor to deposit this amount with the Registrar, Original Side of this Court by 29th January, 2024. The SBI will act in terms of this order. The Registrar,

Original Side will thereafter invest the amount in an interest bearing account with a reputed bank.

The Award dated 21st January, 2019, which was directed to be stayed on and from 28th August, 2023, shall remain stayed until further orders passed by the Court.

The allegations made in the petition are not admitted.

The supplementary affidavit is kept on record.

(MOUSHUMI BHATTACHARYA, J.)

R.Bhar