



A.No.1407 of 2024
in
O.P.No.58 of 2019

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Krishnan Ramasamy,J.,

The respondent in O.P.No.58 of 2019 is the applicant herein and the present applicant has been filed by them seeking a direction to the Registry to issue a Cheque in their favour for a sum of Rs.24,45,645/- together with accrued interest lying to the credit of O.P.No.58 of 2019.

2. Mr.C.Jagadish, learned counsel appearing for the applicant would submit that challenging the award passed by the Arbitral Tribunal dated 04.04.2018, the respondent herein filed an Original Petition, viz. O.P.No.58 of 2019, under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as 'the Act') that along with said Original Petition, the respondent/petitioner also filed an application in A.No.748 of 2019, seeking an order of interim stay of the impugned award; that when the said Petition was admitted on 29.01.2019, this Court granted a conditional stay directing the respondent/petitioner to deposit a sum of Rs.20,00,000/- to the credit of the Registrar General, High Court, Madras; that the respondent also, in compliance of the said interim order dated 29.01.2019, deposited the said amount to the credit of the Original Petition; that subsequently, the main Original Petition itself came to be dismissed by the learned Single Judge vide order dated 03.02.2020; that aggrieved against the said dismissal, the respondent filed an Appeal under Section 37 of the Act before the Hon'ble Division Bench in



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O.S.A.No.58 of 2022, and the said Appeal was also dismissed vide Judgement dated 18.01.2024.

2.1 Therefore, the learned counsel that seeks appropriate direction of this Court to permit the applicant to withdraw the said amount, viz., Rs.24,45,645/- which is lying to the credit of the O.P.No.58 of 2019, since, as per the award passed by this Court in O.P.No.58 of 2019, the applicant is entitled to the said amount together with accrued interest.

3. Mr.D.Prabhu Mukunth Arunkumar, learned counsel for the respondent/petitioner though raised an objection for allowing the application by contending that against the dismissal of O.S.A.No.58 of 2022, the respondent/petitioner is about to prefer Special Leave Petition before the Hon'ble Supreme Court, however, fairly submitted that in the event of the respondent/petitioner succeeding in the said SLP, the applicant may be directed to re-deposit the said amount, and accordingly, sought for disposal of this application with such observation.

4. Heard both sides and perused the affidavit filed in support of this Application.

5. Admittedly, the Original Petition filed by the respondent/petitioner was dismissed by this Court vide order dated 03.02.2020 and when the respondent/petitioner went on Appeal, in O.S.A.No.58 of 2022, as



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did the Hon'ble Division Bench vide Judgement dated 18.01.2024. It is the contention of the learned counsel for the applicant that pursuant to the dismissal of both the Original Petition and Original Side Appeal filed by the respondent/petitioner, the applicant/respondent is entitled to a sum of Rs.24,45,645/- which is lying to the credit of the O.P.No.58 of 2019, inasmuch as, as per the award passed by this Court in O.P.No.58 of 2019, the respondent/petitioner is due and liable to pay the said amount to the applicant/respondent. Though the learned counsel for the respondent/petitioner raised objection by contending that challenging the dismissal of both the Original Petition and Appeal, the respondent/petitioner is going to prefer Special Leave Petition, however, considering the fact that since, as on date, no such Petition has been filed, the matter has attained finality. Therefore, this Court is of the view that in view of the dismissal of both the Original Petition and Original Side Appeal filed by the respondent herein, the applicant/respondent is entitled to the said amount along with interest. Accordingly, this Application is disposed of with the following directions:-

i) Since the respondent/petitioner has already deposited a sum of Rs.20,00,000/- in compliance of the conditional stay order passed by this Court, in A.No.748 of 2019, dated 29.01.2019, and the same is lying to the credit of O.P.No.58 of 2019, Registry is directed to issue a Cheque in favour of the applicant for a sum of Rs.24,45,645/- together with accrued interest on or before 30.04.2024.



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ii) It is made clear that, in the event of any Special Leave Petition filed by the respondent/petitioner, and the same being allowed by the Hon'ble Supreme Court, the applicant is directed to re-deposit the said sum to the credit of O.P.No.58 of 2019.

iii) However, it is brought to the notice of this Court by the learned counsel for the respondent that the applicant has already filed an Execution Petition to set the award in motion, and now, by virtue of the order passed today, the applicant is allowed to withdraw the amount, therefore, Execution Petition has to be made to set off the extent of the amount withdrawn by the applicant and hence, seeks appropriate direction in this regard.

iv) It is needless to mention that, with regard to the aforesaid aspect, if any mentioning is made by the party concerned before the Executing Court, the Executing Court shall pass appropriate orders with regard to the set off of the award amount which is now permitted to be withdrawn by the applicant.

17.04.2024

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