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Orders Reserved on  
17.10.2024

Orders Pronounced on  
25.10.2024

**A.Nos.4667 and 3114 of 2024**

**in**

**E.P.No.110 of 2023**

**RMT.TEEKAA RAMAN., J.**

A.No.4667 of 2024 is filed against the order passed by the learned Master in E.P.No.110 of 2023 dated 23.08.2024.

2. In view of the dispute existing between the parties, the matter was referred to a sole arbitrator in A.F.No.154 of 2018. The learned Former Judge of this Court was appointed as an Arbitrator, and the arbitration award was completed.

3. Before the arbitrator, the petitioner was served and represented by an Advocate.

4. On behalf of the claimant C.W.1 was marked and Exs.C1 to C18 were marked. On behalf of the respondent, R.W.1 was examined and Ex.R1 was marked, and thereafter the arbitration award was passed to the extent of Rs.1,05,41,427/-

5. Execution Petition No.110 of 2023 has been filed before the learned Master. To arrest the judgment debtor and keeping a civil prison under Order



XXI Rule 37 of C.P.C., in which the respondent in the arbitration proceedings filed A.No.3114 of 2024 to set aside the ex-parte order dated 27.03.2024 passed against the judgment debtor in E.P and that petition was dismissed and hence this application.

6. Heard both sides.

7. The E.P was filed for arrest of the person, a judgment debtor, to detain him in the civil prison. An order was passed ex-parte, and to set aside an ex-parte application has been filed by the petitioner, hence an opportunity should be given before he is sent to the civil prison. It should be considered whether he has the means to pay and whether, despite possessing means to pay, he has failed to pay. Admittedly arbitration award was passed on 23.10.2019. The E.P was filed in 2023, so I am inclined to pass the following order:-

(i) The order passed by the learned Master is set aside, subject to the condition that the respondent pays a sum of Rs.25 lakhs, representing 25% of the award amount by the sole arbitrator, within a period of 12 weeks from the date of receipt of a copy of this order, failing which, the petition shall stand automatically dismissed.



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(ii) If such an amount is paid within the stipulated time, the learned Master shall proceed with the matter and dispose of the E.P within a period of 12 weeks from the date of expiry of clause (i) of the said stated above.

8. With these observations, these applications are allowed in the above terms.

**25.10.2024**

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**RMT.TEEKAA RAMAN,J.,**

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order in  
A.Nos.4667 and 3114 of 2024 in  
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