

04 27.02.2025

Ct-12

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FMA 187 of 2025

with

IA No. CAN 1 of 2025

OSCORP Industries Pvt. Ltd.

Vs.

Union of India & Ors.

Mr. Sakya Sen, Sr. Adv

Mr. Tanmoy Mukherjee

Mr. Animesh Paul

Ms. Pallavi Chatterjee

Ms. Susmita Ghorai

Ms. Aindrila Chatterjee

... For the Appellant

Mr. Siddhartha Bhattacharyya

Ms. Moumita Mondal

... For the Respondent no. 1

1. We have heard the learned counsel appearing for the parties.

2. Prima facie it appears that the dispute is inextricable connected with Bihar. Moreover, our attention was not drawn on the previous occasion with regard to the order dated 9th October, 2023 passed by the learned Single Judge in AP 425 of 2023 by which the learned Single Judge has refused to entertain the application filed under Section 11 of the Arbitration and Conciliation Act. Clause 64(1)(iii)(d) of the General Conditions of Contract was considered by the learned Single Judge and in this appeal we cannot go into such question. As on date, the City Civil Court would not have the jurisdiction to decide the matter in view of the order passed by the learned Single Judge on 9th October, 2023.

3. The argument is that the appellant was not heard is not clear from the record, as it appears that the appellant has filed an application for extension of the interim order. If the appellant is aggrieved for not being heard then the proper procedure would be to file an application for recalling of the said order on the ground that the said order was passed without giving any opportunity of hearing to the appellant. However, no application was filed on that ground. The railway authorities have not yet forfeited the security deposit or invoke the bank guarantee.

4. Since we are not disposing of the matter on merit, but on the aforesaid ground we would expect that the railway authorities not to invoke the bank guarantee or forfeit the security deposit for a period of four weeks within which time the appellant may apply before the appropriate court having jurisdiction.

5. In view of the above, the appeal being FMA 187 of 2025 stands disposed of.

6. In view of disposal of the appeal nothing remains to be decided in the application for stay being CAN 1 of 2025 and the same is accordingly disposed of.

7. Urgent Photostat copy of this order, if applied for, be given to the parties on usual undertaking.

(Soumen Sen, J.)

(Biswaroop Chowdhury, J.)