

OD - 6

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction

ORIGINAL SIDE

EC/322/2023
DREDGING AND DESILTATION CO. PVT. LTD.
VS
MACKINTOSH BURN AND NORTHERN EXPRESS
CONSORTIUM AND ORS.

BEFORE :
THE HON'BLE JUSTICE PARTHA SARATHI SEN
Date : 6th February, 2025

Appearance :
Mr. Shankarsan Sarkar, Adv.
..for the decree-holder.

Ms. Nidhi Bahal, Adv.
Mr. Dilawar Khan, Adv.
Mr. Arya Banerjee, Adv.
..for the judgment-debtor no.3.

Mr. Arnab Chakraborty, Adv.
..for the judgment-debtor nos.1 and 2.

1. The decree-holder is represented by its counsel. The judgment-debtor nos.1 & 2 and 3 are also represented by their respective counsels who appeared before this Court in virtual mode.

2. It is submitted at the bar that challenging the judgment and decree as passed in GA/8/2021 two appeals were preferred by the judgment-debtors being APD/9/2023 and APD/12/2023 and both the appeals have been disposed of by an order dated 2nd December, 2024.

3. On behalf of the decree-holder attention of this Court is drawn to column no.7 of the tabular statement of the instant execution application. Attention of this Court is also drawn to the order dated 20.11.2023 as passed by a co-ordinate Bench

wherefrom it reveals that by the order of the Hon'ble Division Bench a sum of Rs.2 crore was kept secured with the office of the Registrar, Original Side of this Court. It is submitted on behalf of the decree-holder that the decretal amount to the tune of Rs.1,93,12,425/- together with interest accrued thereon is payable by the judgment-debtors to the decree-holders. It is further submitted on behalf of the decree-holder that an appropriate order may be passed directing the Registrar, Original Side of this Court, for crediting the entire amount of Rs.2 crore in favour of the decree-holder as has been secured by the order of this Court.

4. Such prayer is however opposed on behalf of the judgment-debtors. In course of their submissions, learned Advocates appearing on behalf of the judgement-debtor nos.1 & 2 and 3 conjointly draws the attention of this Court to the internal page of the certified copy of the judgment. It is submitted that admittedly the decree was passed against the judgment-debtors to the tune of Rs.1,93,12,425/-. It is further submitted that the said decree is absolutely silent with regard to the grant of interest in favour of the decree-holder.

5. It is, thus, submitted on behalf of the judgement-debtors that while disposing the instant execution case, the Registrar, Original Side of this Court, may be directed to pay the decretal amount that is Rs.1,93,12,425/- to the decree-holder and the remaining amount may be returned to the judgement-debtor nos.1 & 2 and 3.

6. On close scrutiny of the entire materials as placed before this Court, this Court finds sufficient merit in the submissions of the learned counsels for the judgement-debtor nos. 1 & 2 and 3. It appears to this Court that while passing this decree, the trial court passed a decree in favour of the decree-holder for a sum of Rs.1,93,12,425/- and the said court is absolutely silent about grant of any interest.

7. This Court being executing court is not expected to go behind the decree and, therefore, this Court directs the Registrar, Original Side of this Court, to hand over a bank draft of Rs.1,93,12,425/- in the name of the decree-holder, that is, Dredging and Desiltation Co. Pvt. Ltd. to the authorised representative of the decree holder on proper identification by the learned Advocate on Record for the decree holder, within two weeks from today and the remaining amount as has been deposited by the judgement-debtor nos.1 and 2 be refunded along with accrued interest thereon, if there be any, to the judgment debtor nos. 1 and 2 by issuing a bank draft in the name of the judgment-debtor no.2 within three weeks from today.

8. With the aforesaid observations, the instant execution case is disposed of.

(PARTHA SARATHI SEN, J.)

