



A.No.463 of 2025
in
Arb. O.P. (Com. Div.) No.335 of 2024

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International Seaport Dredging Pvt. Ltd.

... Applicant

Vs.

Kamarajar Port Limited

... Respondent

ABDUL QUDDHOSE.J.,

A.No.463 of 2025 has been filed by the respondent in Arb. O.P. (Com. Div.) No.335 of 2024, seeking permission of this Court to withdraw a sum of Rs.28,60,82,993/-, which is now lying in Court deposit in Arb. O.P. (Com. Div.) No.335 of 2024. The said amount was deposited, pursuant to a direction given by the Hon'ble Supreme Court, to secure the claim of the respondent in Arb. O.P. (Com. Div.) No.335 of 2024.

2. Arb. O.P. (Com. Div.) No.335 of 2024 has been filed under Section 34 of the Arbitration and Conciliation Act by the respondent in this application in Arb. O.P. (Com. Div.) No.335 of 2024. An arbitral award has been passed against the petitioner on 07.03.2024, which was modified on 17.04.2024, which is the subject matter of challenge in Arb. O.P. (Com. Div.) No.335 of 2024. In the affidavit filed in support of A.No.463 of 2024,



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the applicant has stated that the petition filed by the respondent in Arb. O.P. (Com. Div.) No.335 of 2024 does not deserve any merit. However, the same has been disputed by the respondent in this application, who claims that the arbitral award passed by the arbitral Tribunal suffers from patent illegality. The said question can be decided by this Court only when this Court hears Arb. O.P. (Com. Div.) No.335 of 2024.

3. Since the amount deposited by the respondent in A.No.463 of 2024 is lying idle and the said amount does not benefit either the applicant or the respondent in the application, this Court though not inclined to grant the prayer as sought for in this application, by permitting the applicant to withdraw the said amount unconditionally, is however, permitting the applicant to furnish a bank guarantee for the amount lying to the credit of Arb. O.P. (Com. Div.) No.335 of 2024 to enable the applicant to withdraw the said amount by substituting the same with a bank guarantee.

4. The learned counsel for the respondent has not raised serious objection for the same, provided, the respondent's interest are safeguarded while permitting the applicant to withdraw the said amount. The learned



counsel for the respondent would submit that if at all this Court is going to permit the applicant to withdraw the amount, the following safeguards will have to be granted to protect the interest of the respondent and to secure the amount:

a) The bank guarantee to be furnished by the applicant should be from a nationalized bank;

b) The bank guarantee to be furnished by the applicant should be renewed periodically and before its expiry date, the applicant shall renew the bank guarantee with prior intimation to the respondent;

c) In the event, the respondent succeeds in Arb. O.P. (Com. Div.) No.335 of 2024, the amount withdrawn by the applicant, which is now lying to the credit of Arb. O.P. (Com. Div.) No.335 of 2024 shall be returned to the petitioner in Arb. O.P. (Com. Div.) No.335 of 2024 with interest at 12% per annum;

d) In the event of the respondent succeeding in Arb. O.P. (Com. Div.) No.335 of 2024, the applicant shall return the withdrawn money, which is presently lying to the credit of Arb. O.P. (Com. Div.) No.335 of 2024, to the respondent and once the said money has been returned, the bank guarantee executed by the applicant pursuant to the order passed by



this Court shall stand discharged.

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5. The learned senior counsel appearing for the applicant has not raised serious objection for the safeguards as sought for by the respondent as a condition for allowing this application.

6. This Court, after giving due consideration to the fact that the amount lying in the Court deposit will remain idle without enuring anyones benefit, is inclined to allow this application subject to the conditions to be fulfilled by the applicant as suggested by the learned counsel for the respondent, which is extracted supra.

7. Accordingly, this application is disposed of by directing the applicant to furnish a bank guarantee from a nationalized bank for a sum of Rs.28,60,82,993/-, which is the amount lying to the credit of Arb. O.P. (Com. Div.) No.335 of 2024, favouring the Registrar (General) of this Court and the bank guarantee should be supported by an affidavit of undertaking filed by the applicant, undertaking the following:

a) The bank guarantee to be furnished by the applicant should be



renewed periodically and before its expiry date, the applicant shall renew the bank guarantee with prior intimation to the respondent;

b) In the event, the respondent succeeds in Arb. O.P. (Com. Div.) No.335 of 2024, the amount withdrawn by the applicant, which is now lying to the credit of Arb. O.P. (Com. Div.) No.335 of 2024 shall be returned to the petitioner in Arb. O.P. (Com. Div.) No.335 of 2024 with interest at 12% per annum;

c) In the event of the respondent succeeding Arb. O.P. (Com. Div.) No.335 of 2024, the applicant shall return the withdrawn money, which is presently lying to the credit of Arb. O.P. (Com. Div.) No.335 of 2024, to the respondent and once the said money has been returned, the bank guarantee executed by the applicant pursuant to the order passed by this Court shall stand discharged.

07.02.2025

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Note: Issue Order Copy by today (i.e., on 07.02.2025)



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ABDUL QUDDHOSE.J.,

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