

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APO/2/2022
With
EC/135/2019

ASSET RECONSTRUCTION COMPANY INDIA LIMITED
-Vs-
SREI EQUIPMENT FINANCE LIMITED AND ORS.

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

-AND-

The Hon'ble JUSTICE MD. SHABBAR RASHIDI

Date : February 2, 2026.

Appearance:

Mr. Rohit Das, Adv.
Mr. Kishwar Rahman, Adv.
Ms. Divya Tekriwal, Adv.
...for the appellant

Mr. Swatarup Banerjee, Adv.
Mr. Rajib Mullick, Adv.
Mr. Sariful Haque, Adv.
Mr. Biswaroop Ghosh, Adv.
...for the respondents

The Court: Appeal is at the behest of the appellant and directed against order dated February 19, 2021 passed in EC/135/2019.

Learned advocate appearing for the appellant submits that, there are rival claims with regard to the hypothecation of the movable assets of the company in liquidation put up for sale and ultimately sold by the order impugned.

He submits that, the appellant is aggrieved by such portion of the impugned order which fastens liability to pay the cost of security guards in

respect of the assets of the company put up for sale. He submits that, assets put up for sale was not established to be belonging to the appellant. Learned execution Court proceeded on the basis that, the assets put up for sale did not belong to the appellant.

Learned advocate appearing for the award holder draws the attention of this Court to the impugned order. He submits that, the executing Court noted that, security personnel were deployed at the instance of the appellant.

In the facts of the present case, the assets of the company in liquidation were put up for sale by the official liquidator. The sale was made in an execution petition. The execution petition was at the behest of the award holder. It is at the instance of the award holder, the assets of the company in liquidation was put up for sale and was ultimately sold by the executing Court.

We are not entering into the arena whether the executing Court possess requisite jurisdiction to pass an order impugned in view of the provisions of the Companies Act, 2013 or not we keep that point open.

So far as the present appeal is concerned, it is confined to a portion of the impugned order which directs the appellant to bear the security guard expenses.

The award holder applied for execution of the award. In such execution petition the order of sale was passed. Assets were put up for sale which were sold and ultimately confirmed by the impugned order.

Appellant's claim of hypothecation over the assets put up for sale was not recognised by the order impugned. In other words, such claim was rejected by the executing Court.

Since the appellant did not benefit out of the sale and since, the appellant did not approach the executing Court for sale of the assets, it would be appropriate to absolve the appellant from the liability of payment of the security guards expenses.

So far as the expenses for the security guards are concerned, the issue is kept open to be decided as between the award holder and the liquidator or any other persons, if any, involved apart from the appellant before us.

APO/2/2022 is disposed of without any order as to costs.

In view of the final decision in the appeal, interim order requiring the appellant to keep the amount in a separate bank account is vacated.

(DEBANGSU BASAK, J.)

(MD. SHABBAR RASHIDI, J.)