

M/S Bawana Infra Development Pvt. Ltd. ... vs Delhi State Industrial & ... on 17 April, 2023

Author: Chandra Dhari Singh

Bench: Chandra Dhari Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ OMP (ENF.) (COMM.) 35/2019
M/S BAWANA INFRA DEVELOPMENT PVT. LTD. (THROUGH
ITS AUTHORIZED REPRESENTATIVE)

..... Decree Holder

Through: Mr. Rajshekhar Rao, Senior Advocate
with Mr. Dheeraj P. Deo and Mr.
Yashraj Sumant, Advocates

versus

DELHI STATE INDUSTRIAL & INFRASTRUCTURE
DEVELOPMENT CORPORATION LIMITED (DSIIDC)
(THROUGH ITS CHAIRMAN-CUM-MANAGING DIRECTOR)

..... Judgement Debtor

Through: Ms. Anusuya Salwan, Advocate

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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17.04.2023

EX.APPL(05) 283/2023

1. The instant application has been filed on behalf of the applicant/decreed holder seeking the following prayers:

"(i) allow the present application and release the amount deposited by the Judgment Debtor amounting to Rs. 37.40 Crores, towards principal amount of Claim No.1 awarded to the Decree Holder vide award dated 12.09.2018 without furnishing any security towards the same.

(ii) release Rs. 50,00,000/- towards the cost of Arbitration awarded to the Decree Holder vide award dated 12.09.2018 without furnishing any security towards the same from the accrued interest of fixed deposit of Rs.

37.40 Crores.

(iii) pass such further their order as this Hon'ble Court made deem fit and proper in the aforesaid in the circumstances."

2. The learned senior counsel appearing for the applicant submitted that the Arbitral Award in the arbitration proceedings between the parties was passed by the learned Sole Arbitrator on 12th September, 2018 and both the parties challenged the said Award by way of filing petitions under Section 34 of the Arbitration & Conciliation Act, 1996, bearing O.M.P. (COMM) No. 24/2019 and O.M.P.(COMM) No. 6/2019. Both the petitions were partly allowed by this Court vide judgment dated 16th March 2023.

3. The learned senior counsel submitted that vide judgment dated 16th March, 2023, this Court upheld Claim No.1 towards five annuities amounting Rs.37,40,00,000/- and the cost of arbitration amounting Rs.50,00,000/-. The finding qua the interest in Claim No. 1 and the Claims No. 7 and 11 were set aside vide the judgment dated 16th March 2023.

4. Learned counsel appearing for the decree holder submitted that vide order dated 30th April, 2019, the judgment debtor was directed to deposit the decree amount with the Registry of this Court in the proceedings in the instant petition. It is further submitted that in pursuance of the order passed by the Predecessor of this Court, the judgment debtor deposited the money amounting to Rs.37,40,00,000/- with the Registrar General of this Court.

5. It is submitted that, therefore, by way of the instant application the decree holder is seeking directions to release the amount awarded vide the Award dated 12th September 2018 which was deposited by the judgment debtor on the directions of this Court.

6. Ms. Anusuya Salwan, learned counsel appearing on behalf of the judgment debtor submitted that the higher authorities of both the parties have already initiated talks of settlement. However, the learned senior counsel appearing for the decree holder, on instructions, has denied the same.

7. Heard the learned counsels and perused the record.

8. At the initial stage of proceedings in the instant matter, the Predecessor of this Court vide order dated 30th April 2019 directed the judgment debtor to deposit the annuity amount, as awarded under Claim No.1 of the Arbitral Award, in favour of the decree holder. At this stage, the petitions under Section 34 of the Arbitration and Conciliation Act, 1996 stand decided and partly allowed vide judgment dated 16th March 2023. On the last date of hearing, i.e., 10th April 2023, the learned counsel for the judgment debtor sought time to file an appeal against the said judgment dated 16th March 2023, however, it has been informed that no appeal has been preferred by the judgment debtor.

9. Since, the amount as directed by the Predecessor Bench of this Court was duly deposited by the judgment debtor and is lying with the Registrar General of this Court, the challenges to the Arbitral Award dated 12th September 2018 have been decided and partly allowed and no appeal has been preferred against the same, this Court finds no cogent reason to keep the instant application

pending and keep the amount deposited lying before the Registrar General of this Court.

10. Accordingly, the application is allowed.

11. The Registry is directed to release the amount so deposited in pursuance of the order dated 30th April 2019 to the decree holder after following the procedure subject to the satisfaction of the Registrar General of this Court.

12. With the aforesaid directions, the application is disposed of. OMP (ENF.) (COMM.) 35/2019 List on 21st September, 2023.

CHANDRA DHARI SINGH, J APRIL 17, 2023 SV/MS [Click here to check corrigendum](#), if any