
(2022) 01 OHC CK 0036
In the Orissa High Court
Case No : ARBA No. 17 Of 2017

Mahanadi Coalfields Ltd

APPELLANT

Vs

M/s. Bhatia Coal Washeries Ltd And Another

RESPONDENT

Date of Decision : 07-01-2022

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 36(3)
Code of Civil Procedure, 1908 — Order 41 Rule 5(3)(c)

Citation : (2022) 01 OHC CK 0036

Hon'ble Judges : Arindam Sinha, J

Bench : Single Bench

Advocate : D. Mohanty

Final Decision : Disposed Of

Judgement

Arindam Sinha, J

1. Mr. Mohanty, learned advocate appears on behalf of applicant. He submits, his client's I.A. no.28 of 2021 is application for extension of interim

order dated 17th August, 2018, which the District Judge, by order dated 8th March, 2021 made in the execution case, deemed was vacated.

2. Order dated 17th August, 2018, if it can be called an interim order, is reproduced below.

As an interim, it is directed that further proceeding in Execution Case No.4 of 2016 pending in the Court of the learned District Judge, Jharsuguda shall

remain stayed subject to the petitioner depositing 50% of the amount, i.e. Rs.75,00,000/- (seventy five lakhs only) before the learned executing Court within a

period of two weeks from today.

It will be apparent from the quote that it is a conditional stay order. The

condition, Court is given to understand, has been fulfilled. The arbitration appeal is pending with security deposited for stay of operation of the execution. Said order dated 17th August, 2018 was passed under sub-section (3)

in section 36 of Arbitration and Conciliation Act, 1996. Said sub-section (3) is reproduced below.

“(3) Upon filing of an application under sub-section (2) for stay of the operation of the arbitral award, the Court may, subject to such conditions as it may

deem fit, grant stay of the operation of such award for reasons to be recorded in writing.

Provided that the Court shall, while considering the application for grant of stay in the case of an arbitral award for payment of money, have due regard to the provisions for grant of stay of a money decree under the provisions of the Code of Civil Procedure, 1908 (5 of 1908).”

Clause (c) in sub-rule (3) under rule 5 in order XLI, Code of Civil Procedure says as follows.

“(c) that security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.”

3. The stay operates.

4. The interim application is disposed of.

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