Multitech Construction Vs. Srei Equipment Finance Private Limited and anr.

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SooperKanoon Citation : sooperkanoon.com/1154800

Court : Kolkata

Decided On : Jul-08-2014

Judge : Sanjib Banerjee

Appellant : Multitech Construction

Respondent : Srei Equipment Finance Private Limited and anr.

Judgement :

IN THE HIGH COURT AT CALCUTTA Ordinary Original Civil Jurisdiction ORIGINAL SIDE AP No.1051 of 2013 MULTITECH CONSTRUCTION Versus SREI EQUIPMENT FINANCE PRIVATE LIMITED AND ANR.

And AP No.634 of 2014 SREI EQUIPMENT FINANCE PRIVATE LIMITED AND ANR.

Versus MULTITECH CONSTRUCTION AND ANR.

BEFORE: The Hon'ble JUSTICE SANJIB BANERJEE Date : 8th July, 2014.

Appearance: Mr.Gautam Chaudhury, Adv.Mr.S.Banerjee, Adv.The Court : The earlier petition is for setting aside an award.

The later matter is the post-award petition under Section 9 of the Arbitration and Conciliation Act, 1996, since the award remains unexecutable during the pendency of the petition for setting aside the same.

The usual practice followed in this Court in such matters is that the finance company is requested to disregard the award altogether and indicate its claims on the basis of the amount in default under the finance agreement.

The finance company is also permitted to charge interest at the rate of 12 per cent per annum for the period or periods of default.

If the strict letter of the agreement is to be followed, the effective rate of interest would be in excess of 30 per cent per annum.

Without prejudice to the parties rights and contentions, the respondents have made over demand drafts of a total amount of Rs.15 lakh to the petitioner in court today which have been accepted.

The finance company will immediately communicate to advocate for the petitioner, without prejudice, the amount due on the basis of the usual practice of this Court of awarding interest at 12 per cent per annum.

If the respondents are able to pay off the entire amount in one go, the matters may come to an end.

If the respondents seek time to make the payment, the interest will be capitalised and the respondents would be required to pay the instalments with further interest.

Let the matter appear on July 23, 2014.

Urgent certified website copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SANJIB BANERJEE, J.) bp.