IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

Present:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

E.C.77 of 2021

with

IA No. G.A.1 of 2021

EIG (Mauritius) Limited

Vs.

McNally Bharat Engineering Company Limited

For the Petitioner	:	Mr. Ratnanko Banerji, Sr. Adv. Mr. Deepan Kumar Sarkar, Adv. Mr. Arunabha Deb, Adv. Ms. T. Abraham, Adv. Ms. Ashika Daga, Adv. Ms. Shivani Rawat, Adv. Ms. J. Ray, Adv.
For the Respondent	:	Mr. S.N. Mookherjee, Sr. Adv. Mr. Shaunak Mitra, Adv. Mr. Anil Choudhury, Adv. Mr. Sakate Khaitan, Adv. Mr. Dhiraj Mhetre, Adv. Mr. Somit Singh, Adv. Ms. Smiti Tewari, Adv. Ms. Nandita Bajpai, Adv.

Reserved for Judgment on : 08.10.2021.

Delivered on : 10.11.2021.

Moushumi Bhattacharya, J.

1. The present application is for enforcement of a foreign Arbitral Award dated 19th June, 2020 and an addendum of 26th October, 2020, passed in ICC Arbitration case no. 23705/HTG initiated by the petitioner EIG (Mauritius) against the respondent and its wholly owned subsidiary, McNally Sayaji Engineering Limited (MSEL). McNally Bharat Engineering Company Limited (MBECL) is the Award Debtor in the present case.

2. The issue which arises for consideration is the scope of inquiry for resisting the enforcement of a foreign award under Section 48 (2)(b) in Part II of The Arbitration and Conciliation Act, 1996. In essence, the respondent Award debtor opposes the prayer in the execution case on the ground that the enforcement would be contrary to the public policy of India, specifically the fundamental policy of Indian law, since enforcing a Put Option available to the petitioner violates The Foreign Exchange Management Act, 1999 and the Securities Contracts (Regulation) Act, 1956.

Brief Facts :

The transaction:

3. The transaction which forms the nub of the dispute consists of several Agreements entered into between the parties including a Shareholder's Agreement and an Agreement related to EIG's (the petitioner before this

court and the claimant before the Arbitral Tribunal) Put Right, which were executed on 9th October, 2009. The Shareholder's Agreement provided for EIG to acquire shares in MSEL from the respondent MBECL. Both the Agreements contained specific obligations on the respondent and MSEL and a series of exit mechanisms for the benefit of the petitioner EIG. The admitted factual position before the Arbitral Tribunal was that the petitioner EIG acquired 14.91% of the shares in MSEL and that the latter's shares were never listed on certain stock exchanges in India. The Share Purchase Agreement and the Letter Agreement dated 9th October, 2009 formed the primary documents of the transaction for EIG's acquisition of shares in MSEL. Shareholder's Agreement required the respondents before the Arbitral Tribunal to list the shares of the second respondent MSEL on the Bombay Stock Exchange or the National Stock Exchange or to make a public offer of MSEL's shares on these exchanges by 30th June, 2012. On the failure to effect such listing, the Shareholder's Agreement also provided the petitioner EIG the option to exercise a "Put Right" on the event of the "Put Event" by exercising a "Put Notice" and required the first respondent MBECL, if legally able or otherwise, to arrange for a third party to purchase, at the option of EIG, a portion of the shares held by EIG at the "Put Price". The "Put Price" was the total amount invested by EIG for the Put Shares plus an amount equal to 22% compounded annual rate of return on the invested amount. The valuation was to be done for the Put Shares and if the petitioner's Put Right was not acted upon, the petitioner had the right to require the respondent to transfer the Put Shares to another party. The

parties represented that performance of the Shareholder's Agreement would not be in conflict with any applicable law.

The events:

4. The shares of MSEL had not been listed on the BSE or the NSE by 1st July, 2012 and a public issue was also not made on these Stock Exchanges for the shares held by the petitioner. These aforesaid events constituted a "Put Event" under the Shareholder's Agreement. The parties, thereafter, re-negotiated the terms of the exit mechanisms in the Shareholder's Agreement in April 2013 and executed an amended Share Purchase Agreement under which MSEL was to buy back the Put Shares from EIG. After abortive negotiations, the petitioner informed the respondent and MSEL that it was exercising its Put Right by a Notice dated 14th July, 2017 and requested the respondent to engage, a merchant banker for valuation of the Put Shares within seven days. On 21st July, 2017, the respondent informed EIG that it would not recognize the Put Notice as it was contrary to Indian law.

5. The dispute before the Arbitral Tribunal was that the Shareholder's Agreement falls foul of the Indian law and is, therefore, unenforceable.

Findings of the Arbitral Tribunal:

6. By a majority comprising of Dr. Pryles and Dr. Secomb, the Arbitral Tribunal directed the respondent to make payment of an amount of INR 1,14,01,90,000/-, as damages, which is equivalent to the Put Price and upon payment, transfer of shares held by the petitioner in favour of the

respondent. A dissenting opinion was given by Justice (Retd.) Ashok Ganguly holding that the Put Option runs contrary to the FEMA and the SCRA and is not hence enforceable.

7. The Arbitral Tribunal found that the petitioner's exercise of the Put Option under Clause 11.2 of the Shareholder's Agreement did not contravene either FEMA or SCRA. The reasoning in brief for arriving at this conclusion was that Put Option did not violate FEMA since the Put Option required the respondent to arrange a non-resident third party to purchase the shares if it was legally unable to do so itself by reason of which FEMA did not apply to the said transaction. The Tribunal was also of the view that SCRA did not apply to the Put Option and hence was not rendered invalid under the SCRA. The Arbitral Tribunal accordingly held that the respondent had breached its obligations under the Shareholder's Agreement to give effect to the Put Notice and also procure a non-resident third party for purchasing the petitioner's shares. The Tribunal accordingly awarded damages to the petitioner equivalent to the value of the Put Price.

Contentions of the petitioner Award-holder - EIG (Mauritius):

8. According to Mr. Ratnanko Banerji, learned Senior Counsel and Mr. Deepan Kumar Sarkar, learned counsel, the Award is enforceable since the respondent does not meet the narrow threshold of the "Public Policy" objection under Section 48(2) (b) of the Act for refusing the enforcement of the Award. The argument urged on behalf of the petitioner is premised on Section 48(2)(b) which does not permit a review of the merits of the dispute.

According to counsel, the Award does not violate either FEMA or the SCRA even if the court considers the merits of the Award.

Contentions of the respondent Award-debtor - McNally Bharat (MBECL):

9. According to Mr. S. N. Mookherjee, learned Senior Counsel and Mr. Shaunak Mitra learned counsel, the enforcement of the Foreign Arbitral Award would be contrary to the fundamental policy of Indian law and would hence be unenforceable in terms of Section 48(2)(b) of the Act. It is submitted that the Award is in contravention of FEMA as it results in enforcement of a Put Option which provides for assured returns to a non-resident entity and further that the Put Option is in violation of the SCRA. Counsel submit that the RBI by a letter dated 10th February, 2012 has informed that the Put Option is contrary to the FEMA Regulation as it had the effect of providing assured returns to a non-resident investor. It is also urged that the RBI had disapproved of the Put Option even before the said clause had been invoked.

10. The prayer of the respondent, hence, is that the present proceeding for enforcement of the foreign Arbitral Award be rejected.

Decision :

11. The determination as to whether enforcement of the Arbitral Award dated 19th June, 2020 together with the addendum dated 26th October, 2020 should be allowed would involve the following issues:

(i) The extent of inquiry permitted under Section 48(2)(b) of The Arbitration and Conciliation Act, 1996; and

(ii) Alternatively, if the Award is considered on merits, whether the Award violates The Securities Contracts (Regulation) Act, 1956 (SCRA) and The Foreign Exchange Management Act, 1999 (FEMA).

The issues are being dealt with in sequence.

(i) The extent of inquiry permitted under Section 48(2)(b) of The Arbitration and Conciliation Act, 1996.

12. Section 48 is placed in Part II of the Act which deals with enforcement of certain foreign awards. The term "Foreign Award" has been defined in Section 44 to mean an Arbitral Award on differences between persons arising out of legal or contractual relationships and considered as commercial under the law in force in India and made on or after 11th October, 1960 in pursuance of an agreement in writing for arbitration governed by the First Schedule to the Act and in one of the territories having reciprocal provisions as notified by the Central Government to which the Convention in the First Schedule applies. Section 48 – "Conditions for enforcement for foreign awards" – is the roadblock to the facilitators for enforcement of such Awards under Part II, where the onus is placed on the party who would suffer the consequences of the enforcement. The facilitators are Sections 46 and 47 which mandate that a Foreign Award shall be treated as binding for all purposes and the requirements for such application, respectively.

13. Section 48(1) lists the grounds on which enforcement may be refused subject to the party furnishing proof of the ground urged for refusal. The grounds are limited to grounds (a) to (e) and the word "*only*" preceding the said grounds indicate that the grounds are limited to only those stated in 48(1). Section 48(2)(b) provides for an additional ground where the enforcement of the award may be refused when such enforcement would be contrary to the public policy of India. *Explanations* 1 and 2 to 48(2)(b) narrows the threshold for refusal of enforcement even further by restricting the public policy argument to the three disjunctive conditions thereunder which includes *Explanation* 1(ii) where the Award is in contravention with the public policy of Indian law. *Explanation 2* further clarifies the restricted domain of refusal of enforcement of a foreign award by putting the stops on a review on the merits of the dispute in order to determine whether the award is in contravention of the fundamental policy of Indian law.

14. Although the grounds available for setting aside an arbitral award under Section 34(1) and (2) are substantially mirrored in Section 48(1) and (2), the ground of patent illegality appearing on the face of the Award [Section 34(2A)] is absent from the bouquet of grounds available in Section 48. The tighter contours of Section 48 in respect of refusal of enforcement of a foreign award makes it clear that the momentum towards enforcement and a deemed decree of a court is contemplated without speed-breakers unless a party furnishes proof of existence of the conditions under 48(1) or the court finds the enforcement failing the tests under 48(2). It can therefore be concluded that a party seeking to resist the enforcement of a foreign

award has to trek through a terrain more arduous than the landscape of Section 34 where the award can trip on multiple pitfalls.

The threshold for breach of the fundamental policy of Indian law:

15. In *Renusagar Power Co. Ltd. vs. General Electric Co.; 1994 Supp (1) SCC 644,* the Supreme Court was of the view that the defence of public policy which is available under Section 7(1)(b)(ii) of the Foreign Awards (Recognition and Enforcement) Act, 1961 should be narrowly construed and that something more than contravention of law is required to attract the bar of public policy. Although *Renusagar* was decided in the context of Section 7(1)(b)(ii) of the 1961 Act, which was subsequently repealed, the aforesaid view of the Supreme Court in *Renusagar* has been accorded statutory recognition under 48(2)(b). *Renusagar* was reiterated in *Cruz City 1 Mauritius Holdings vs. Unitech Limited; 2017 SCC Online Del 7810* where a Single Bench of the Delhi High Court held that any contravention of a provision of an enactment is not synonymous with contravention of the fundamental policy of Indian law. *Cruz City* was approved by the Supreme Court in *Vijay Karia vs. Prysmian Cavi E Sistemi SRL; (2020) 11 SCC 1* holding that violation of public policy of India should amount to breach of the most basic notion of justice in the country.

16. Therefore, if the conditions for refusal under 48(1) and 48(2) are read together with the cited decisions, the irrefutable conclusion appears to be that the threshold for breach of the fundamental policy of Indian law must be a breach of the most basic principles of Indian law which forms the

substratum of the laws of the country. This construction sits well with the statutory framework in Section 48 which raises a presumption of enforceability of a foreign award unless the refusal rests on grounds which are patent and obvious. The consequential inquiry would then be whether breach of a statutory provision in SCRA or FEMA would amount to a breach of the fundamental policy of Indian law, if such inquiry is permissible under the restricted scope of Section 48(2)(b) of the Act. This issue will be discussed later in the judgment.

Section 48 does not permit a review on the merits of the dispute :

17. As stated above, *Explanation 2* to 48(2)(b) is the final bottleneck to the flow of the "refusal" sequence by keeping the public policy test on the periphery of the merits of the dispute. The caution sounded by the Supreme Court in *Renusagar* on Section 7 of the 1961 Act not enabling a party to impeach an award on merits has been carried forward from the erstwhile arbitration regime to the present Act; reference: *Vijay Karia* where the Supreme Court frowned "*against a foray into the merits of the matter, and which is plainly proscribed by Section 48 of the Arbitration Act read with the New York Convention*".

18. The respondent has placed reliance on *Soleimany Vs. Soleimany; 1998 3 W.L.R. 811* and *National Agricultural Co-operative Marketing Federation of India (NAFED) vs. Alimenta S.A.; 2020 SCC Online SC 381* to contend that a court can review the terms of the contract while deciding the enforceability of the Award if the court finds any reason to doubt the legality of the

underlying contract. *Soleimany*, however, involved a contract to export crops from Iran in violation of laws which was upheld by the **"**Beth Din" Tribunal as the illegality did not have any effect on the party's rights under the applicable Jewish law. The English Court of Appeal was unwilling to enforce the Award as the contract involved infringing the criminal law of Iran. The decision did not deal with commercial transactions between private parties. On the other hand, the present case enquires into an illegality under the Indian law expressed in 48(2)(b) of the 1996 Act. The Supreme Court in *National Agricultural Co-operative Marketing Federation of India* embarked on an inquiry by examining the merits of the dispute and the Foreign Award on the particular findings in that case. The mandate of Section 48(2)(b) makes it clear that the statutory intent is to curtail the inquiry on the violation of the fundamental policy of Indian law within the periphery of the obvious without delving into the merits of the dispute.

19. The above decisions do not assist the case of the respondent in engaging with the merits of the dispute.

(ii) <u>If considered on merits, whether the Award violates the Securities Contracts (Regulation) Act, 1956 (SCRA) and the Foreign Exchange Management Act, 1999 (FEMA)?</u>

The argument of the respondent award-debtor before the Tribunal on the SCRA:

20. The award-debtor had argued that the Put Option was not a Spot Delivery Contract under the SCRA and hence was illegal since there was a delay between the date the Put Option was exercised, the date of the delivery of the Shares and payment of the Put Option.

The Arbitral Tribunal's findings on the SCRA:

21. The Arbitral Tribunal primarily examined the three questions; the definition of a "Spot Delivery Contract" under Section 2(i) of the SCRA; the relevance of the decisions in *Edelweiss Financial Services Ltd. vs. Percept Finserve Pvt. Ltd.; (2019) SCC OnLine Bom 732*; and Clause 11.9 of the Shareholder's Agreement requiring an immediate transfer of the shares by the petitioner to either the respondent or the third party purchaser upon payment of the Put Price to the petitioner. The Tribunal noted that there were strong similarities between the Agreement under consideration and that under *Edelweiss* in that both Agreements involved a purchaser of shares having a right to resell those shares to the original seller in circumstances where a future event did not occur; second, there was a time delay after exercising the option in both cases until completion of the transaction and third, shares and payment were to be simultaneously exchanged in both cases. The Tribunal further explained that *Edelweiss* had considered Section 16 of the SCRA and the Notification dated 1st March, 2020 issued by the Securities and Exchange Board of India which the respondent award-debtor had relied on to contend the illegality of the Put Option. The Tribunal relied on the proposition of *Edelweiss* that the substance of a Spot Delivery Contract is a near simultaneous exchange of

shares and payment and rejected the distinction made by the respondent between a "voluntary postponement" in *Edelweiss* and a "contractual postponement" in the present case. The Tribunal held that the performance of the Put Option was on a Spot Delivery Contract basis and was hence not rendered invalid by the operation of the SCRA read with the Notification.

22. It is clear from the above that the Arbitral Tribunal interpreted the Shareholder's Agreement in light of the provisions of the SCRA including construction of Clause 11.9 of the Shareholder's Agreement against the definition of a Spot Delivery Contract under SCRA. The construction given is in line with the commercial purpose of the transaction and the intention of the parties at the time of execution thereof.

The argument of the respondent award-debtor on the FEMA:

23. The respondent had urged that the Put Option provided for the payment of assured returns to the petitioner by the respondent or a "legally able" non-resident third party is in violation of FEMA.

The Arbitral Tribunal's findings on the FEMA:

24. The Tribunal interpreted the Put Option and noted that the primary difference between the interpretations given by the parties to the Put Option arose from different approaches to the term "*legally able*" contained in Clause 11.2 of the Shareholder's Agreement and whether the award-debtors were obliged to procure a non-resident third party to purchase the shares. The Arbitral Tribunal found that the term "*legally able*" referred to a legal ability to complete the transaction and concluded that the third party

requirement under Clause 11.2 of the Shareholder's Agreement must include a non-resident third party. The aforesaid finding of the Arbitral Tribunal was based on the intention of the parties and the centrality of the exit mechanism given to the petitioner under the Shareholder's Agreement. The Tribunal also relied on *NTT Docomo Inc. vs. Tata Sons Ltd. (2017) SCC Online Del 8078* for the similarities between *Docomo* and the case before the Tribunal. *Docomo* held that the promoter could have lawfully performed its obligation to provide an exit to the investor at any price including at a price above the market value of the Shares through a non-resident buyer. The Tribunal agreed with the view of the Delhi High Court in *Docomo* that an Indian entity would not have been able to complete the transaction due to FEMA restrictions and concluded that the option available to the respondent by in procuring a non-resident purchaser to purchase the shares would not contravene FEMA as FEMA would not apply to a non-resident third party purchaser.

25. The conclusion of the Arbitral Tribunal is based on a reasonable and commercial interpretation of the Shareholder's Agreement upon considering the commercial intentions of the parties and the relevant case-law on the subject. Giving due weightage to the interdict contained in *Explanation 2* to 48(2)(b) of the Act, this court is not inclined to interfere with the interpretation of the Arbitral Tribunal on the ground of public policy while deciding on the enforcement of the Award.

In any event, FEMA does not constitute the fundamental policy of Indian law:

26. The Supreme Court in *Vijay Karia* held that transactions which violate FEMA cannot be held to be void and an Award upholding such a transaction could simply not be invalidated on that basis. The Supreme Court approved the Bombay High Court decision in *Cruz City* with regard to the limited scope of the fundamental policy of Indian law and strongly opined that a rectifiable breach under FEMA could not be held to be a violation of the fundamental policy of Indian law and proceeded to hold that even if the Reserve Bank of India took action for violation of FEMA, the question of non-enforcement of a foreign award on the ground of violation of FEMA would not arise as the award does not become void on that count.

27. In *Banyan Tree Growth Capital LLC vs. Axiom Cordages Limited.; (2020) SCC Online Bom 781,* the Bombay High Court refused to interfere with the enforcement of a Foreign Award on the ground of violation of a FEMA Regulation and noted the decision of the Supreme Court in *Vijay Karia* and *Cruz City*. It should also noted in this context that the Supreme Court in *Vijay Karia* distinguished the decision of *Dropti Devi vs. Union of India (2012) 7 SCC 476* to disagree with the contention that any violation of a FEMA Rule would not amount to an illegal activity.

28. It can hence be said that FEMA does not form part of the fundamental policy of Indian law and a violation of FEMA, even if assumed to be correct,

would not render the Award unenforceable. It must also be said that the findings of the Arbitral Tribunal with regard to the legality of the Put Option against the SCRA was based on *Edelweiss* which has recently been affirmed in *Banyan Tree*. Second, the Tribunal's conclusion that the Put Option did not violate FEMA is also in consonance with *Docomo* and finds accord with the view taken in *Cruz City* and *Vijay Karia*. The view also stands reinforced by the decision of the Bombay High Court in *Banyan Tree*. Notably, the appeal from *Banyan Tree* was dismissed by the Supreme Court with exemplary costs. The Arbitral Tribunal's findings are therefore consistent with the law as it stands today.

29. Although, learned counsel appearing for the respondent has attempted to differentiate between the present transaction and those in the cases which are construed against the respondent by the Tribunal and in *Banyan Tree*, this court is unable to agree that the difference would render the enforcement of the present Award vulnerable on the public policy ground. The interdict contained in *Explanation* 2 to Section 48(2)(b) against a review on the merits of the dispute is revitalized in light of the arguments proffered on behalf of the respondent before this court. The Award contains a detailed recording of the submissions made on behalf of the parties followed by the analysis of the Tribunal on each of the points of submission. The Arbitral Tribunal has not only construed the Clauses in the Shareholder's Agreement in the context of the submissions made by the respondents but has also considered the relevant decisions on each of the issues raised by the parties. On a reading of the Award, it is found that the

points raised by counsel for the respondent were argued threadbare before the Tribunal. The decisions cited in support of such submissions were also extensively relied on and considered and distinguished by the Tribunal. This court was unable to find any issue which was raised on behalf of the respondent before the Tribunal but was not considered or analyzed by the Tribunal.

30. For an Arbitral Award as complete and comprehensive as the one under consideration, any further inquiry into the transaction documents or the construction of the relevant clauses therein or the events culminating in the dispute or even the provisions of the SCRA or the FEMA would amount to an exercise which has precisely been taken out of the present statutory framework. To repeat, the contravention of the law must be such that no further discussion would be warranted to dislodge the finding of contravention. In other words, the enforcement of the Award should be clearly and manifestly contrary to Indian law. The subtle distinction between the 'enforcement' of an award being put to the test in Section 48 as opposed to the 'Award' itself having to pass muster under Section 34 further reins in all possible enquiries on the relevant factual matters on the aspect of contravention of fundamental policy of Indian law.

The alternative view:

31. Shorn of any statutory framework the crux of the matter is that the parties had intended, through the agreed terms of the transaction documents, to provide multiple modes of exit to the petitioner in the form of

a cascading set of alternatives and to secure the exit by commensurate monetary returns. The exit options were central to the agreement as intended and understood by the parties at the time of execution of the Shareholder's Agreement and the investment made by the petitioner in the wholly-owned subsidiary of the respondent. The respondent however sought to plug the exit routes when the conditions precedent for the petitioner to exercise its option fructified. The respondent took recourse to SCRA and FEMA to obstruct the petitioner and repeats such objections even now before this court. This is the basic premise of the dispute.

32. Contrary to the grounds for resisting enforcement of the Foreign Award, this court is of the considered view that the Award in essence is an Award for breach of the obligations of the respondent and its wholly-owned subsidiary. The Arbitral Tribunal found that the failure on the part of the respondent and MSEL to procure a third party purchaser constituted a breach of such obligations with clear consequences as to damages. The Tribunal, accordingly, held that loss of the bargain and the measurement of damages was readily apparent by reference to the value of the Agreements themselves. Seen in this light, the Award does not enforce the Put Option but simply awards damages to the petitioner for the breach on the part of the award-debtor. The Tribunal relied on *Docomo* in this context wherein the investor had been awarded damages for the promoter's breach of the obligation to provide an exit to the investor. The Award can therefore also be seen as a money Award simpliciter without having any bearing on the public policy of India in the context of either SCRA or FEMA.

The consequential question which must also be answered: whether there should be simultaneous enforcement and execution of a Foreign Award:

33. Section 49 of the Act makes it clear that once a foreign Award is held to be enforceable under Part II of the Act, the Award shall be treated as a decree of the court and nothing further is required for execution of the Award. In *Fuerst Day Lawson Ltd. vs. Jindal Exports Ltd.; (2001) 6 SCC 356*, the Supreme Court held against the need for separate proceedings for deciding the enforceability of the Award to make it a rule for the court and to take up the execution thereafter. This view was reiterated by the Supreme Court *in LMJ International Limited. vs. Sleepwell Industries Company Limited.; (2019) 5 SCC 302* wherein it was held that the enforcing court is expected to simultaneously consider the aspect of enforceability and execution at the threshold.

34. The above decisions point to a definitive direction for the enforcement and execution of a Foreign Award to be considered in one and the same proceeding as reflected in Section 49 of the Act. The request of the respondent for being permitted to oppose the reliefs sought in the execution of the Award in a separate hearing is hence found to be unacceptable and is accordingly rejected.

35. In view of the above discussion and reasons, this court is unable to accept the contention of the respondent that the enforcement of the Award should be refused on the grounds urged. In successfully surmounting the

grounds for refusing enforcement, the Award is held to be a binding Award and the court is satisfied that the Foreign Award is enforceable under Sections 46, 47 and 49 of the Act. The Award should hence be enforced in accordance with the enabling provisions under Part II of the Act. The petitioner is accordingly entitled to the reliefs claimed in Column 10 of the Tabular Statement; specifically prayers (a), (d) and (e) thereof. The Award passed in ICC Case No.23705/HIG shall be enforced as a decree of the court.

36. The respondent is restrained form dealing with or alienating any of its assets mentioned in Annexure K of the Affidavit in support of the Tabular Statement till disposal of the execution application. The Directors of the respondent are directed to file an affidavit in Form 16-A, Appendix E to The Code of Civil Procedure, 1908 for disclosing all assets of the respondent within a period of ten weeks from the date of service of this judgment on the respondent.

37. The petitioner shall be at liberty of mentioning E.C. No.77 of 2021 for listing before the appropriate Court.

38. G.A.1 of 2021 is disposed in terms of this judgment.

Urgent Photostat certified copy of this Judgment, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(MOUSHUMI BHATTACHARYA, J.)