

COURT-II

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

**EP NO. 2 OF 2015 &
IA NOs. 466, 482 & 483 OF 2015 &
IA NOs. 78 & 79 OF 2016 IN
APPEAL NO. 76 OF 2013 & 82 OF 2013**

Dated : 5th February, 2016

**Present : Hon'ble Mr. Justice Surendra Kumar, Judicial member
Hon'ble Mr. T. Munikrishnaiah, Technical Member**

In the matter of :

Eastern India Powertech Ltd.

.....Appellant(s)

Versus

Assam Power Distribution Co. Ltd. & Ors.

.....Respondent(s)

Counsel for the Appellant(s)

:

Mr. Krishnan Venugopal
Mr. Manu Seshadri
Mr. Abhishek Roy,
Ms. Trishala Kulkarni

Counsel for the Respondent(s)

:

Mr. Avijit Roy, Mr. Barnali Das &
Mr. Hemanta M. Sharma, Rep
for R-1 & 2
Mr. Pragyan Sharma &
Mr. Ravi Kant Pal for R-4
Ms. Prerna Priyadarshini for intervener

ORDER

IA No. 78 of 2016 in Execution Petition No. 2 of 2015 has been filed on behalf of Respondent Nos. 1 and 2/Judgment Debtors under Section 151 of the CPC with the prayer that the Order dated 19.01.2016 passed in IA No. 18 of 2016 be recalled. The ground for recalling is that the said IA No. 18 of 2016 was listed before this Tribunal on 19.01.2016 and the listing of the said date was not within the knowledge of the Learned

Counsel for the Judgment Debtors, nor the Counsel received any intimation about the listing of the said application. Vide order dated December 21, 2015 of this Tribunal, the said matter was in fact directed to be listed on February 05, 2016. Without entering into the merit of this IA, the position at this moment is that the order on said IA No.18 of 2016 has today been passed. We mentions here that the order on the said IA No. 18 of 2016 was reserved on 19.01.2016. Since the said order, which was reserved on 19.01.2016, has today been pronounced, the IA No. 78 of 2016 has become infructuous and is hereby dismissed as being infructuous.

Another IA being No. 79 of 2016 has been filed by the Judgment Debtors in the Execution Petition making pray to this Tribunal to allow amendment of the additional affidavit dated November 21, 2015 filed by the Judgment Debtors and further modify the order dated November 18, 2015 of this Tribunal. Copy of this IA has already been received by the Appellant, yesterday. Mr. Krishnan Venugopal, Sr. Advocate appearing for the Decree Holder/Execution Petitioner submits that there is no provision in law to allow or to authorize any court or tribunal in the country to modify the contents of affidavit. Learned Counsel for the Judgment Debtors seek some time to show Ruling of the Hon'ble Supreme Court which entitles the Tribunal or Court to amend in the contents of the affidavit for which Learned Counsel is granted two weeks time.

Post this IA No. 79 of 2016 for hearing on 18.03.2016. Learned Counsel for the Appellant may file objections to the IA No. 79 of 2016 within two weeks from today after serving copy on the other side. Learned Counsel for Judgment Debtors may also file any objections to the reply filed by the Decree Holders within one week thereafter. The Execution Petition No. 2 of 2015 shall also be listed on the same date, namely, 18.03.2016.

(T. Munikrishnaiah)
Technical Member

dk/vg

(Justice Surendra Kumar)
Judicial Member