

S/L 24
09.12.2020
Court. No. 19
GB

C.O. 1518 of 2020

South Eastern Railwaymen's Congress
Vs.
Abhishek Debnath & Ors.

(Through Video Conference)

*Mr. Tanmoy Mukherjee,
Mr. Amal Kumar Saha,
Mr. Iresh Paul.*

...for the Petitioner.

*Mr. Rajdeep Bhattacharya,
Ms. Sevanti Roy.*

...for Opposite Party No.1.

This is an application filed by the appellant in Misc. Appeal No.151 of 2020 challenging the order dated November 7, 2020 on the ground that despite there being an order of this Court directing hearing of the application that will filed in connection with the Misc. appeal, the learned court below did not consider the application on the point of grant of ad-interim stay. The Misc. appeal is pending before the learned District Judge, Alipore. The said Misc. appeal arises out of a Title Suit being Title Suit No.676 of 2020.

I have perused the order impugned. I have also perused the order of this Court wherein the registry of the Alipore court was directed to register the appeal filed by the petitioner and the learned court below was directed to hear out the application filed in connection with the Misc. appeal. Despite there being a direction, the said application was not heard. It is submitted on behalf of the opposite parties that a written objection along with an application challenging the

maintainability of the appeal has been filed. It is further submitted that the hearing has been going on but the petitioner has chosen not to appear in the court below.

Without going into the factual aspect of what transpired between the parties before the learned court below, in my opinion, as there has been an order of this Court directing the learned court below to take up the applications filed in connection with Misc. appeal on November 7, 2020, the learned court below ought to have taken up the said application, at least on the point of hearing of the interim stay. However now as affidavits have been exchanged, no purpose will be served in directing the court to hear out the matter only on the point of interim stay.

This Court directs the learned lower appellate court to dispose of the Misc. Appeal No.151 of 2020 within December 31, 2020 along with all the applications filed therein by the respective parties. The learned court below will decide the entire appeal on its own merits without being influenced in any manner by any observations made hereinabove.

The revisional application is disposed of.

There will be, however, no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)