

18-01-2021
Subrata
Item no.3

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

MAT No.8 of 2021
M/s. Barnagore Jute Factory PLC
-vs-
Regional Provident Fund Commissioner & Officer-In-
Charge, Employees' Provident Fund Organization & Ors.
with
CAN No.1 of 2021

Mr. L.K. Gupta
Mr. Ranjay De
Mr. Basabjit Banerjee
Mr. Sumanta Biswas ...for the appellant

Mr. Shiv Chandra Prasad ...for the PF authority

As the issue involved is very short, we propose to dispose of the appeal itself today dispensing with all formalities.

The appellant is a company and is aggrieved by refusal of an interim order by a learned single judge of this court on 11th December 2020 in a writ application, observing that the provident fund authority was free to proceed with the "process of recovery notice".

A notice dated 6th November 2018 of the said authority on page 441 of the stay petition says that in case the appellant was unable to deposit Rs.2,27,37,438/- by 16th November 2018, "strict legal action to realize the above mentioned amount" would be initiated.

We record that till date no further action has been taken by the provident fund authority. However, learned advocate Mr Prasad appearing for the authority submits that action for recovery is contemplated soon.

Mr Gupta, learned senior advocate appearing for the appellant-company, submits that he would be able to establish that there is nothing due and payable by his client to the said authority.

In our opinion, these questions are to be decided in the writ application.

Considering the above prima facie case and the balance of convenience, we direct that, till the disposal of the writ application, the recovery proceedings shall remain stayed on fulfilment by the appellant of the following terms.

Rs.1,00,00,000/- (Rupees one crore) is to be deposited in five equal monthly instalments, of Rs.20,00,000/- (Rupees twenty lakh) each commencing from 15th February 2021 onwards. In default of payment of any of the instalments, the provident fund authority will be at liberty to approach the learned single judge by way of an application to seek leave to proceed with the recovery.

We request the learned single judge to dispose of the writ application as early as possible subject to the convenience of the court.

The appeal and the stay application – MAT No.8 of 2021 and CAN No.1 of 2021 – are disposed of.

[I.P. Mukerji, J]

[Md. Nizamuddin, J]

