

13-04-2021
Item no.3
Subrata

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
(Commercial Division)

FMAT No.258 of 2021
Abhijit Barui & Anr.
-vs-
Ruby Mukherjee & Ors.
with
CAN No.1 of 2021

Mr. Debraj De
Mr. Harpal Singh
Ms. Anasua Biswas ...for the appellants

Mr. Pratip Mukherjee
Mr. Omar Faruk Gazi ...for respondents no.1 & 2

Ms. Aparna Banerjee ...for the railways

As the issue involved is very short, we are disposing of the appeal itself after dispensing with all formalities.

The judgement and order of the learned court below dated 20th March 2021, under appeal, was made in an application by the appellants-plaintiffs for an interim injunction connected with a commercial suit. No case for judgement upon admission was run. Neither any case for attachment before judgement.

Today, we are shown a copy of a letter dated 25th December 2017 written by the late husband of the first respondent admitting that a sum of Rs.4,65,99,589/- was due and payable by him to the appellants.

Learned counsel for the first and second respondents contends that the letter is fabricated. However, learned counsel for the appellants draws our attention to a contract document dated 21st February 2013 signed by the same person. This document is also denied

by the respondents.

Prima facie, we do not find any difference in the lay out of these two documents and the signatures appearing thereon. One is allegedly of 2013 and the other of 2017.

Be that as it may, the learned judge in the said impugned order has directed that 60 per cent of the receivables by the first and second respondents from the railways shall be paid to them by the authority and the remaining 40 per cent shall be retained by the railways. We do not find any infirmity in the exercise of this discretion.

However, considering the above prima facie case, we order that 40 per cent of the amount retained by the railways shall be invested by them in the name of the railways in a term deposit with a nationalised bank earning the highest rate of interest, upon intimation to the parties. Such amount shall remain invested to the credit of the suit.

We also direct that all steps be taken by the learned court below, so that the suit is expedited and the trial is concluded, considering the unusual pandemic situation, within two years from date.

The appeal and the connected application (CAN No.1 of 2021) are disposed of accordingly.

It is made clear that this order will not prevent the appellants-plaintiffs from taking any further action to secure the sum payable by the railways which they are entitled to.

[I.P. Mukerji, J]

[Md. Nizamuddin, J]

