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Ct. No. 18
07.09.2021

**C.O. No. 1339 of 2021
(Via Video Conference)**

**KAHM Industries Private Limited
Vs.
Punalur Paper Mills Limited & Ors.**

Mr. Jishnu Saha, Sr. Adv.,
Mr. Sakya Sen,
Mr. Sumanta Ganguly ... For the petitioner.

Mr. Souradipta Banerjee,
Mr. Arnab Roy,
Mr. Subhojit Mullick ... For the O.P. No. 1.

Mr. Anirban Ray, Ld. G.P.,
Mr. Arnab Basu Mullick ... For the O.P. Nos. 2 & 3.

The defendant no. 3 in a suit for declaration is the petitioner of the present application under Article 227 of the Constitution of India, which is directed against Order No. 8, dated July 23, 2021 passed by the 6th Bench of learned Judge, City Civil Court at Calcutta in Title Suit No. 613 of 2021.

The learned Trial Judge by the order impugned has directed the petitioner to refund a sum of Rs. Nine Crores in the account where it was lying earlier and the defendants Bank have been directed to revert the said transaction.

The petitioner has purchased the premises No. 13, Nellie Sengupta Sarani, Kolkata – 700 087 from the opposite party no. 1, a portion of which has been acquired in a land acquisition proceeding. Dispute between the parties arose as to who is entitled to the

compensation amount in respect of the said acquisition proceeding.

A portion of the awarded sum came into a Bank account standing with the defendant no. 1 Bank.

The plaintiff/opposite party no. 1 in the suit, inter alia, has prayed for a decree of declaration that the defendant Bank has no authority to permit persons who are not associated with the plaintiff company to operate the said Bank account.

The plaintiff/opposite party no. 1 in the suit filed an application alleging that the petitioner in violation of the order passed by the Hon'ble Division Bench in an appeal arising out of the suit has withdrawn a sum of Rs. Nine Crores from the said account.

The learned Trial Judge by the order impugned has disposed of the said application holding that the said sum was withdrawn by the petitioner in violation of the said order and directed refund of the said money in the said account.

Mr. Jishnu Saha, learned senior advocate appearing on behalf of the petitioner submits that there was no violation of the order of Hon'ble Division Bench in withdrawing the said amount and sought to impeach the very maintainability of the application on which the aforesaid direction has been passed. He further submits that his client has purchased the said premises with right to receive the compensation under the award of the said land acquisition case.

Mr. Souradipta Banerjee learned advocate appearing on behalf of the plaintiff/opposite party no. 1 categorically disputes the said contention of Mr. Saha.

Heard the learned counsel for the parties, perused the materials on record.

It is informed by the learned counsel for the parties that the application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure filed by the plaintiff/opposite party no. 1 praying for an order of injunction in respect of the operation of the subject Bank account is pending disposal before the learned Trial Judge and tomorrow (08.09.2021) is the date fixed for hearing of the said application.

It appears that the fate of the said injunction application would determine the right of the petitioner over the withdrawn money, therefore, at this stage scrutiny as to the right of the parties over the said money is not warranted inasmuch as any decision on the said issue would affect the proper adjudication of the said application for injunction.

C.O. 1339 of 2021 is therefore disposed of by requesting the learned Trial Judge to dispose of the said application for injunction positively within a period of two weeks from date and in doing so shall not grant any unnecessary adjournment to either of the parties.

It is made clear in the event the plaintiff is successful in its application for injunction, the petitioner shall return the said sum of Rs. Nine Crores to the account where it was lying earlier.

The order impugned is modified to the extent indicated above.

There shall be no order as to costs.

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

(Biswajit Basu, J.)