

ORDER SHEET

APOT/51/2021
With
CS/159/2010
IA No: GA/1/2021

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

NAVIN CHANDRA OJHA
Versus
CALCUTTA SAFE DEPOSIT COMPANY LTD AND ORS

BEFORE:
The Hon'ble JUSTICE I. P. MUKERJI
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 25th March, 2021.

(Via Video Conference)

Appearance:
Mr. Aniruddha Mitra, Adv.

Mr. Dhruba Ghosh, Sr. Adv.
Mr. A. Basu, Adv.
Mr. R. Banerje, Adv.

The Court: This is an appeal from an order dated 3rd March, 2021 made by a learned single judge in an interim application connected with the suit. The order is as follows:

“The Court: Mr. Ghosh, learned senior advocate appears on behalf of respondent no.5 and prays for direction on his client to file affidavit. Mr. Basuchowdhury, learned advocate appearing on behalf of applicant submits, prayer for appointment of an auditor should not require affidavits.

Affidavit-in-opposition by two weeks; reply one week thereafter.

List on 31st March, 2021.”

What is the appellant aggrieved with?

The learned judge on the prayer of Mr. Ghosh directed affidavits to be exchanged.

It seems that the appellant wanted a final order on the first day without such direction.

In such a motion, three courses are open to the learned judge. First, as his lordship had adopted on 3rd March, 2021.

Secondly, by passing an interim order.

Thirdly, by recording that this was such an exceptional case that it could be disposed of at the interim stage by a final order without calling for any affidavits.

We do not think that the discretion made by the learned judge calling for affidavits can be interfered with on appeal.

Moreover, such an order does not seem to be appellable under Clause 15 of the Letters Patent.

More importantly, the application is posted for hearing on 31st March, 2021.

The grounds made in this appeal may be reiterated before the learned single judge when he considers the application after exchange of affidavits.

The appeal (APOT/51/2021) and the connected application (IA No: GA/1/2021) are disposed of accordingly.

(I. P. MUKERJI, J.)

(MD. NIZAMUDDIN, J.)

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