

OD-14

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

*APOT/58/2021
WITH CS/21/2021*

IA NO: GA/1/2021

*PRABHA SURANA
VS.
SMT. SUDHA KANKARIA AND ANR.
.....*

BEFORE:
The Hon'ble JUSTICE I. P. MUKERJI
AND
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 9th April, 2021.
[VIA VIDEO CONFERENCE]

Mr. Amritam Mondal, Mr. Anil Chowdhury, Advs...for appellant.

Mr. Subrata Goswami, Mr. Debrup Bhattacharjee, Advs...for respondents.

The Court : Very often to obtain quick relief the parties annoy the court. It has happened in this case. Sheer anxiety and overzealousness in making submissions has resulted in an order more unfavourable to a party than it ought to have normally been.

It appears from the recording of facts in the impugned order dated 9th March, 2021 that learned counsel wanted disposal of the judgment upon admission application at the motion stage. He also wanted orders under Order XXXVIII rule 5 of the Civil Procedure Code at that stage when the facts of the case warranted that the case of the appellant/plaintiff ought to be more properly considered on affidavits.

Mr. Mondal submits that submissions were not made exactly in that way.

The judgment upon admission application was dismissed by the learned single judge.

Having regard to the facts of the case, the interest of the litigants involved and the ends of justice we only set aside that part of the order disposing of the application, IA NO: GA/1/2021. The application is to be heard out on affidavits. Time to file the same is extended in the following manner.

Affidavit in opposition by 28th April, 2021; affidavit in reply by 7th May, 2021.

It is to be taken that the prayer for an interim order was refused by the learned trial judge.

Both the appeal and the stay application are disposed of after dispensing with all formalities.

(I. P. MUKERJI, J.)

(MD. NIZAMUDDIN, J.)

