

IA No. GA 1 of 2021
APOT No. 86 of 2021
with
CS No. 214 of 2010
IN THE HIGH COURT AT CALCUTTA
In appeal from its
ORDINARY ORIGINAL CIVIL JURISDICTION
CIVIL APPELLATE JURISDICTION

Muhammad Usuf & Ors.
Versus
Jaspal Singh Chandhok & Ors.

Before:
The Hon'ble Justice I. P. MUKERJI
And
The Hon'ble Justice ANIRUDDHA ROY
Date: 18th August 2021

Appearance:
Mr. Haradhan Banerjee, Advocate
Ms. Somali Mukhopadhyay, Advocate
for the appellants

Mr. Sakya Sen, Sr. Advocate
Mr. Rohit Banerjee, Advocate
Mr. Aditya Mondal, Advocate
For the respondents

The Court: We propose to dispose of this appeal dispensing with all formalities.

The concept of awarding costs by the court has to be properly appreciated. When a party wins, the court compensates him for the costs incurred by him to contest the litigation, on such terms as the court thinks fit and proper. It is either sent for taxation to the department to be taxed in accordance with the rules or the judge exercises the power to award such costs as according to him, is reasonably incurred or ought to have been reasonably incurred by the winner to contest the litigation. It is never a punishment on the loser for prosecuting a lost cause or a vexatious lost cause. It is also not a fine imposed on the loser for having prosecuted a worthless case.

Sometimes, when the procedure adopted by the defendant in a suit is dilatory the court has the power to order the defendant to secure the costs of the plaintiff. (See, Order XXV of the Civil Procedure Code)

Furthermore, the award of costs is always inter-parties. The court can only order costs to be paid to a third party like West Bengal State Legal Services Authority, Kolkata, only if the beneficiary of the costs i.e. the winning party has so agreed. It is an accepted position that when costs are awarded to a third party by the court and not objected to by the beneficiary, his consent is deemed to have been given. In that way, award of costs to the third party like West Bengal State Legal Services Authority, Ramkrishna Mission etc. by the court is justified.

By the order dated 7th April 2021 costs of Rs. 50,000/- have been awarded against the appellant.

Having heard learned counsel for the parties we reduce the costs to Rs. 3,400/- to be paid by the appellant to the respondents' advocate-on-record by 31st August 2021.

The rest of the impugned order is affirmed.

The appeal and the connected application are disposed of.

(I. P. MUKERJI, J.)

(ANIRUDDHA ROY, J.)