

OD-4

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/118/2021
WITH CS/14/2021

IA NO:GA/1/2021

HELEN ALEXINA RODGERS MARTIN
VS.
AMALGAMATED FUELS LTD. AND ORS.

.....

BEFORE:

The Hon'ble JUSTICE I. P. MUKERJI

AND

The Hon'ble JUSTICE ANIRUDDHA ROY

Date : 18th August, 2021.

[VIA VIDEO CONFERENCE]

Mr. Nirmalya Dasgupta, Mr. J. Patnaik,
Mr. D. N. Dey, Advs...for appellant.

Mr. Avinash Kankani, Mr. Sarosij Dasgupta,
Mr. Suman Majumder, Advs...for respondents.

Mr. Shayak Chakraborty,
Mr. Anirudhya Dutta, Advs...for respondent nos.3 and 4.

The Court : We admit the appeal. Dispensing with all formalities we dispose of it today.

This appeal is against a judgment and order dated 9th April, 2021 by a learned single Judge dismissing two applications by the defendants [IA No:GA/2/2021 and IA No:GA/3/2021]. This appeal is by the first defendant in the application, GA/2/2021.

The application before the learned trial Judge was under Order 7 Rules 10 and 11 of the Civil Procedure Code for return/rejection of the plaint on the ground that this Court had no pecuniary jurisdiction to entertain, try and determine the suit. The basis of the objection was on

the valuation of the suit: Whether the suit was to be valued on the market value of the property or on the value based on rent ?

To decide this issue, in our opinion, an extensive inquiry has to be made by the court. Such inquiry would be both factual and legal.

This is not a case which can be decided on a bare reading of the plaint.

This very defence of the first defendant has to stand to trial. The learned single judge before whom the trial will take place may be requested to frame the issue as to whether this court has pecuniary jurisdiction to entertain, try and determine the suit as a preliminary issue before deciding the other issues.

Time for the first defendant to file the written statement is extended till 20th September, 2021.

The appeal and the connected application are disposed of with the above observations, which will have the effect of modifying the impugned judgment and order.

(I. P. MUKERJI, J.)

(ANIRUDDHA ROY, J.)

