

ORDER SHEET

APO/144/2020
WITH
CS/135/2020
IA No.GA/1/2021

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

ISHAT ENCLAVE PRIVATE LIMITED
VERSUS
MUKESH YADAV

BEFORE:

The Hon'ble JUSTICE I. P. MUKERJI

The Hon'ble JUSTICE SUBHASIS DASGUPTA

Date : 15th February, 2021.

Appearance:

Mr. Ahin Chowdhury, Sr. Adv.

Mr. Pradyumna Sinha, Adv.

Ms. Urmila Chakraborty, Adv.

Mr. Aasish Chowdhury, Adv.

Ms. Puja Tripathi, Adv.

The Court: An affidavit of service is on record.

Mr. Sinha, learned counsel, submits that the stay application has been duly served upon the respondent-defendant. Such submission is accepted.

None appears for the respondent-defendant.

This is an appeal from a judgment and order dated 1st December, 2020 by a learned single judge of this court refusing leave under Clause 12 of the Letters Patent. There is no consequential order for return of the plaint. Therefore, this decision of the court has to be construed as the rejection of the plaint which is treated as a decree under section 2(2) of the Code of Civil Procedure, 1908.

The suit is a libel action.

The cause of action is an allegedly defamatory email concerning the appellant-plaintiff sent by the defendant received and read by the financier lender of the plaintiff at his office at 6A, Kiran Shankar Roy Road. The necessary pleadings can be found at paragraphs 7 and 17 of the plaint. In paragraph 18 of the plaint, it is

stated that there was publication of the defamatory statement through advertisement in newspapers by or at the instance of the defendant.

In paragraph 17 there is sufficient pleading to indicate which part of the cause of action arose within the jurisdiction of this court and which part arose outside its jurisdiction.

In those circumstances, we can only observe that there may have been some inadvertence on the part of learned counsel presenting the plaint to bring these paragraphs to the notice of the learned judge.

Since the issue involved is extremely short, we have heard out the appeal itself dispensing with all formalities.

We allow the appeal by setting aside the order dated 1st December, 2020.

We grant leave under Clause 12 of the Letters Patent to the appellant/plaintiff to institute the suit in this court. Such leave shall be endorsed on the plaint in the usual manner, by the department.

The connected stay application (IA NO.GA/1/2021) is disposed of accordingly.

(I. P. MUKERJI, J.)

(SUBHASIS DASGUPTA, J.)

cs.