

IA No. GA/1/2021
APO No. 108 of 2021
with
AP No. 328 of 2021
And
IA No. GA/1/2021
APO No. 110 of 2021
with
AP No. 269 of 2021
IN THE HIGH COURT AT CALCUTTA
In appeal from its
ORDINARY ORIGINAL CIVIL JURISDICTION
CIVIL APPELLATE JURISDICTION
(Commercial Division)

Dadu Dayal Commotrade Ltd. & Anr.

Versus

Amoorith Pipes And Tubes Pvt. Ltd. & Anr.

Before:

The Hon'ble Justice I. P. MUKERJI

And

The Hon'ble Justice ANIRUDDHA ROY

Date: 26th August 2021

Appearance:

Mr. Ratnanko Banerjee, Sr. Advocate

Mr. Jishnu Choudhury, Advocate

Mr. Aniruddha Mitra, Advocate

Ms. Sudipa Bhattacharya, Advocate
for the appellants

Mr. Dhruba Ghosh, Sr. Advocate

Mr. Rohit Banerjee, Advocate

Mr. Suryaneel Das, Advocate

Mr. Aditya Mondal, Advocate
for the respondents

The Court: We admit each of the appeals.

As the point involved is very short, we take up the appeals for consideration, dispensing with all formalities.

The dispute which has arisen between the parties relates to a partnership firm. The parties which are limited companies are the partners. The appellants were expelled from the partnership on 26th

June 2021. More or less admittedly, after that day they are not being allowed to take part in the partnership by the respondents.

Mr. Banerjee, learned senior counsel for the appellants submits that his clients could not have been expelled under the deed of partnership or under the law governing their relationship.

The partnership deed contains an arbitration clause.

Applications under section 9 of the Arbitration and Conciliation Act, 1996 of both parties are pending before the learned single judge. An application under section 11 of the said Act is also pending.

Considering the prima facie case of the parties, balance of convenience and all other factors, we direct that the section 9 applications pending before the learned single judge be expeditiously heard out. Time for the respective respondents to file their affidavits-in-opposition to the section 9 applications is extended till 2nd September 2021. Affidavits-in-reply may be filed by 9th September 2021. Soon thereafter the learned single judge may be requested to hear out the said applications, subject to the convenience of the bench.

The respondents shall not transfer, encumber or otherwise deal with the fixed assets of the partnership firm.

The respondents shall furnish to the appellants a statement of accounts relating to the partnership firm from 1st April 2021 till 26th June 2021. From 27th June 2021 onwards the respondents shall file quarterly statements of accounts certified by an auditor in a sealed cover before the first court.

Upon disposal of the interim applications, filing of statements of accounts shall abide by the order to be passed by the learned first court.

The impugned orders dated 7th July 2021 and 8th July 2021 as modified by this order shall continue till 11th November 2021 or until further orders of the learned single judge, whichever is earlier.

Save and except to the extent above we have not gone into the merits of the case.

Each of the appeals and the connected applications (APO 108 of 2021 with IA No. GA/1/2021 and APO 110 of 2021 with IA No. GA 1/2021) are disposed of by this order.

(I. P. MUKERJI, J.)

(ANIRUDDHA ROY, J.)

R. Bose