

ORDER SHEET
APOT/167/2021
WITH
CS/289/2017
IA NO: GA/1/2021
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

SURYA ALLOY INDUSTRIES LIMITED
VS
PUNJAB NATIONAL BANK AND ORS.

BEFORE:

The Hon'ble JUSTICE I. P. MUKERJI

The Hon'ble JUSTICE ANIRUDDHA ROY

Date : 08TH DECEMBER, 2021.

Appearance:
Mr. Jishnu Saha, Sr. Adv.
Mr. T. Chakraborty, Adv.
Mr. R. Kajaria, Adv.
Mr. I. Saha, Adv.

Mr. Joy Saha, Sr. Adv.

Ms. A. Rao, Adv.

The Court : We admit the appeal.

As the point involved is very short, we propose to hear the appeal out today, dispensing with all formalities.

The appellant challenges the imposition of costs by the learned single judge while dismissing an interim application made by the appellant/plaintiff.

The cost imposed is Rs.1 lakh payable by the appellant to the respondent bank; in default of payment within eight weeks from the date of the order, the cost is to carry interest at 6% per annum.

At the time of disposal of a matter, a judge is enjoined with a duty to make a judicious consideration. It is not always that a losing party is directed to pay the costs of the winner. If the proceeding before the Court has been prosecuted bona fide and diligently, even if the party loses, it is within the province of the Court to declare that no costs should be imposed on the loser.

We find that the prayers that have been made in the interlocutory application are bona fide which may or may not be tenable in law in aid of the final reliefs in the suit. We do not think it can be said that this application was vexatious or in abuse of the process of Court.

The learned single judge was entitled to reject the application which his lordship has done but we do not think that imposition of costs was necessary in the matter. The impugned order is challenged only on the award of costs.

We allow this appeal (APOT No.167 of 2021) by setting aside that part of the order relating to the award of costs.

The stay application (GA No.1 of 2021) is, accordingly, disposed of.

(I. P. Mukerji, J.)

(Aniruddha Roy, J.)