

IA No. GA 1 of 2021
APOT No. 199 of 2021
with
AP No. 371 of 2021
IN THE HIGH COURT AT CALCUTTA
In Appeal from its
ORDINARY ORIGINAL CIVIL JURISDICTION
CIVIL APPELLATE JURISDICTION
(Commercial Division)

Coronation Infrastructure Pvt. Ltd. & Ors.

Versus

Srei Equipment Finance Ltd.

Before:

The Hon'ble Justice I. P. MUKERJI

And

The Hon'ble Justice ANIRUDDHA ROY

Date: 14th December 2021

(via Video Conference)

Appearance:

Mr. Surojit Nath Mitra, Sr. Advocate

Mr. Vivek Basu, Advocate

Mr. Arindam Paul, Advocate

Ms. Parna Mukherjee, Advocate

for the appellants

Mr. Swataurp Banerjee, Advocate

Mr. Saubhik Choudhury, Advocate

Mr. Dripto Majumdar, Advocate

Mr. Debottam Das, Advocate

for the respondent

The Court: We proposed to hear out the appeal dispensing with all formalities.

On 18th November 2021 the impugned order was made by this court directing the Receiver to take actual physical possession of the subject assets.

On 8th December 2021 the instant appeal was moved before us. Up to that point of time the respondent had not activated the Receiver to implement the order. Very fairly on that day Mr. Banerjee, learned advocate for the respondent assured the court that till this court was

able to consider the stay application the Receiver would not be requested by his client to take possession of the subject assets.

Today Mr. Surojit Nath Mitra, learned senior advocate appearing for the appellants has urged various points to persuade us to pass an order staying possession of the said assets by the Receiver. He says that his clients are a very large group of contractors, well reputed in the market and they have a longstanding relationship with the respondent. They have no intention to deprive the respondent of their dues. He shows us documents evidencing his clients' deposit of Rs. 5 crores with the respondent and creation of mortgage of immovable property in its favour. He contends that the immovable property is valued at more than Rs. 60 crores. Learned counsel argues that there is sufficient security to satisfy the claim of the respondent and that the order directing the Receiver to take actual physical possession be discharged.

Mr. Banerjee, learned advocate for the appellants submits that the mortgage was in respect of a different transaction. He says that in the present transaction the dues of the appellants are over Rs. 36 crores and that the order has been rightly passed.

Having considered the rival contentions of the learned counsel, we are of the view that whether the security is sufficient or not cannot be gone into by the appellate court in the absence of sufficient evidence. Considering the relationship of the parties some more time also should be given to them to come to an amicable solution.

In those circumstances, we direct that the Receiver shall stay her hands regarding taking actual physical possession of the subject assets for a further period of 10 days i.e. till 24th December 2021. However, the Receiver will be at liberty to make an inventory of the subject assets.

The appellants will have opportunity to approach the learned single judge by an appropriate application offering security for their

dues towards the respondent. If such an application is made the learned judge will consider the same and decide whether the order directing the Receiver to take actual physical possession should be discharged or not.

In the absence of any order to the contrary the Receiver shall proceed to take actual physical possession after 24th December 2021 in terms of the impugned judgement and order, which is modified as above.

The appeal (APOT No. 199 of 2021) and the connected application (IA No. GA 1 of 2021) are disposed of.

(I. P. MUKERJI, J.)

(ANIRUDDHA ROY, J.)

R. Bose