

ORDER SHEET

APOT OF 202 OF 2021
WITH
AP NO.434 OF 2021
IA NO:GA/1/2021

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE
(COMMERCIAL DIVISION)

SKBM MINING PROJECT PVT. LTD. AND ANR.
VS.
SREI EQUIPMENT FINANCE LTD. AND ANR.

BEFORE:

The Hon'ble JUSTICE I. P. MUKERJI
The Hon'ble JUSTICE ANIRUDDHA ROY
Date : 14th December, 2021
(Via Video Conference)

Appearance:

Mr. Rupak Ghosh, Adv.
Mr. Vivek Basu, Adv.
Mr. Arindam Paul, Adv.
Ms. Parna Mukherjee, Adv.
For appellants
Mr. Swatarup Banerjee, Adv.
Mr. Saubhik Choudhury, Adv.
Mr. Dripto Majumdar, Adv.
Ms. Ayusmita Sinha, Adv.
Mr. Debottam Das, Adv.
For respondents

The Court : We admit the appeal.

As the point involved is very short, we propose to dispose of it dispensing with all formalities.

We have examined the impugned judgment and order dated 18th November, 2021.

We find no ground to interfere with the same and propose to modify it to give an opportunity to the appellants to pay up the dues of the respondents.

Upon the appellants making payment of Rs.25 lakhs to the respondents by 20th December, 2021, the receiver will stay his hands till 4th January, 2022 with regard to his taking possession of the subject assets.

In the meantime, it will be open for the appellants to take out an application before the learned single judge on the basis of the submissions made by Mr. Ghosh learned counsel for the appellants today in court that the dues of the respondents are much less than that claimed and that the admissible dues would be paid up by the appellants or sufficient security provided to secure the claim.

It may be noted that Mr. Banerjee learned counsel for the respondents refuted each and every submission of Mr. Ghosh, contending that each instalment payable included lease rent and GST and that the claim was properly made by his clients on the appellants.

On that application being made, the learned single judge will consider the same and decide whether the stay of the order directing the receiver to take actual physical possession will continue or not. If the appellants are unable to obtain an order by 4th January, 2022 restraining the receiver to take physical possession, the receiver shall forthwith take physical possession of the assets in terms of the impugned order. In default of the appellants making payment of Rs.25 lakhs by 20th December, 2021, the receiver shall take the same action.

The impugned judgment and order is modified only to the above extent.

The appeal(APOT 202 of 2021) and the stay application(IA NO: GA 1 of 2021) are disposed of by this order.

(I. P. MUKERJI, J)

(ANIRUDDHA ROY , J)