

OD – 11 & 12

ORDER SHEET
GA 1 OF 2019
GA 2803 OF 2019
CS 276 OF 2019
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

SHANKAR LAL BAGRI AND ANR.
Versus
SRI AVANI BALLYGUNJ OWNERS ASSOCIATION AND ORS.

GA 2 OF 2020
GA 483 OF 2020
CS 276 OF 2019
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

SRI AVANI BALLYGUNJ OWNERS ASSOCIATION AND ORS.
Versus
SHANKAR LAL BAGRI AND ANR.

BEFORE:
The Hon'ble JUSTICE DEBANGSU BASAK
Date : 4TH January, 2021.

Appearance:
Mr. S. Mukherjee, Adv.
Mr. M. Mukherjee, Adv.
Mr. B. Pradhan, Adv.
...for the Petitioner

Mr. Tilak Bose, Sr. Adv.
for the Respondent

The Court : On the prayer of the learned Advocate appearing for the
plaintiffs, CS No.276 of 2019 is allowed to be withdrawn for presentation before

the appropriate Court, in terms of Order VII Rule 10 of the Code of Civil Procedure, 1908.

Learned Advocate appearing for the plaintiffs, on instruction submits that, the order of the learned Master granting leave under Order I Rule 8 of the Code of Civil Procedure, 1908 be set aside as the plaintiffs will take appropriate steps with regard thereto before the appropriate forum.

Learned Senior Advocate appearing for the defendant submits that, in the facts of the present case the provisions of Order I Rule 8 of the Code of Civil Procedure, 1908 are not attracted.

Since the plaintiffs want to withdraw the suit for it to be filed before the appropriate forum and since the plaintiffs seek to have the order granting leave under Order I Rule 8 of the Code of Civil Procedure, 1908 set aside, I find no reason not to do so. The issue as to whether Order I Rule 8 of the Code of Civil Procedure, 1908 is attracted to the facts of the present case is left open to be decided by the appropriate forum in the event, plaintiffs apply for the same.

In such circumstances, the plaint of CS No.276 of 2019 be returned to the learned advocate-on-record for the plaintiffs in terms of Order VII Rule 10 of the Code of Civil Procedure, 1908. The order granting leave under Order I Rule 8 of the Code of Civil Procedure, 1908 is set aside.

All interim applications made in CS No.276 of 2019 are disposed of. Subsisting interim orders, if any, stands vacated. It is clarified that in the event, the plaintiffs file the suit before the appropriate forum, the parties are at liberty to agitate their respective points before such forum including agitating the

pending applications save and except the application for Order I Rule 8 of the Code of Civil Procedure, 1908 filed before this Hon'ble Court. The plaintiffs are at liberty to apply afresh before the appropriate forum under Order I Rule 8 of the Code of Civil Procedure, 1908 if they are entitled to do so in law.

On the return of the plaint, the department will treat CS No.276 of 2019 and all connected applications therewith to be disposed of.

(DEBANGSU BASAK, J.)

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