

ORDER SHEET
APOT/221/2021
WITH
CS/180/2021
IA NO: GA/1/2021
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE
(Commercial Division)

NARSINGH ISPAT UDYOG PVT LTD
VS
JWALA COKE PVT LTD

BEFORE:

The Hon'ble JUSTICE I. P. MUKERJI

The Hon'ble JUSTICE ANIRUDDHA ROY

Date : 22ND DECEMBER, 2021.

Appearance :
Mr. S. N. Mookherjee, Learned Advocate General
Mr. Reetobrata Mitra, Adv.
Mr. Anirban Kar, Adv.
Mr. Pramit Kr. Shee, Adv.
Ms. Nibedita Mukherjee, Adv.
Ms. Vedatri Bhattacharya, Adv.
...For the appellant

Mr. Anirban Ray, Adv.
Ms. Rituparna De Ghose, Adv.
Ms. Micky Chowdhury, Adv.
Mr. Arnab Sardar, Adv.
...For the respondent

The Court : We admit the appeal. As the point involved in this appeal is quite short, we propose to hear it out today, dispensing with all formalities.

This is an appeal from a judgement and order dated 14th December, 2021, made by a learned single judge of this Court vacating the ex parte ad interim order dated 16th September, 2021.

By that order, an order of injunction had been made restraining the respondent “from selling or transferring coke of a value of Rs.36 lakhs until further orders are passed in this application.

The ad-interim order shall remain valid for a period of four (4) weeks. The petitioner shall serve a copy of the application as well as the order passed by this Court on the respondent within a week from date.

List this matter after three (3) weeks.”

The reliefs claimed in the plaint are, inter alia, as follows :

- a) “An order of injunction be passed restraining the respondent and their men and agents and assigns from selling, transferring or alienating 149 MT coke from the plant of the respondent at P.S. Para, P.O.-Dubra, District- Purulia, 723162, West Bengal;
- b) Order appointing a Receiver over the said 149 MT coke lying at the plant of the respondent at P.S. Para, P.O. – Dubra, District – Purulia, 723162, West Bengal;
- c) The Receiver be directed to sell the said 149 MT coke and retain such amount in an interest bearing deposit;
- d) In the alternative the respondent be directed to deposit a sum of RS.36,25,723/- with the Registrar, Original Side, High Court at Calcutta;
- e) Leave be granted to produce additional document not annexed to or relied on in the plaint;”

In this suit, the claim is only for monetary relief.

In those circumstances, we do not think that the ultimate order made by his lordship in the impugned judgement and order dated 14th December, 2021 vacating the interim order calls for any interference.

The observations made in the impugned judgement are kept open for re-assessment at the time of hearing of the interim application.

The interim application and the application for decision of the interim order should be heard out together after exchange of affidavits in the following manner in each of the application :

Affidavit-in-opposition be filed by 10th January, 2022.

Affidavit-in-reply be filed by 17th January, 2022.

We make it absolutely clear that all issues involved in the suit and in the interlocutory application and the application for vacating the interim order are kept open to be decided by the learned trial judge.

The appeal (APOT No.221 of 2021) and the connected stay application (IA GA No.1 of 2021) are disposed of accordingly.

(I. P. Mukerji, J.)

(Aniruddha Roy, J.)