

02.08.2022
Item No. 19.
Court No.6.
AB

**F.M.A. 515 of 2020
With
I A CAN 1 of 2019 (Old CAN 10931 of 2019)**

**C.U. Staff Co-operative Credit Society
Limited & Others**

Vs

Arun Bikash Banerjee & Others

Mr. Ashit Kr. Chakraborty,
Mr. Krishnendu Bera ...for the Appellants.

Mr. Subhojit Chowdhury...for the Respondent.

By consent of the parties, the appeal and the application are taken up for hearing together.

This appeal is directed against an interim order dated September 17, 2019, passed in W. P. No.11154 (W) of 2019.

Unfortunately, the writ petition has not been annexed to the stay petition.

It appears that the respondent no.1/writ petitioner approached the learned Single Judge with a prayer for a direction on the Cooperative Society in question to pay pension to him. The learned Judge directed exchange of affidavits and further observed that "in the meantime the Society is directed to allow the petitioner to withdraw the matured fixed deposit amount."

Learned Advocate for the appellants says that firstly, there was no prayer in the writ petition in terms whereof the aforesaid direction could have been

passed by the learned Judge. Secondly, no fixed deposit is lying with the Society. Hence, question of allowing the petitioner to withdraw the fixed deposit amount does not arise. Learned Advocate also says that the writ petition is not maintainable.

These are issues, which need to be placed before the learned Single Judge. We are not inclined to interfere with the impugned order, which is interim in nature.

The respondents in the writ petition shall be at liberty to file affidavits-in-opposition to the writ petition within a fortnight from date. Reply thereto, if any, be filed by the writ petitioner within a week thereafter.

The parties will be at liberty to pray for early hearing of the writ petition after completion of affidavits, to the extent the business of the Court may permit. The point of maintainability of the writ petition is left open to be decided by the learned Single Judge.

Since we have not called for affidavits, the allegations in the stay application are deemed not to be admitted by the respondents.

FMA No.515 of 2020 stands disposed of along with CAN 10931 of 2019.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Rai Chattopadhyay, J.)

(Arijit Banerjee, J.)