

48 29.03.2022

Ct-08

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FAT 83 of 2021
with
I.A No. CAN 1 of 2021

Wearit Global Limited & Anr.
Vs.
Lomat International NV & Anr.

Mr. Subhankar Nag
Mr. Sidhartha Chatterjee
Mr. P. Sanchali
Mr. Biswajit Chowdhury
... For the Appellants

Mr. Jayanta Sengupta
Mr. Rahul Auddy
... For the Respondents

By consent of the parties the appeal is taken up for hearing.

The trial court dismissed the suit on the ground of violation on the part of the plaintiffs to comply with certain directions passed with regard to the conduct of the suit.

The reply to the show-cause was not signed by the learned advocate nor it was supported by any affidavit. The affidavit ought to have been signed by the appellants. However, we feel it was a curable defect for which a time could have been granted to the appellants.

The trial court appears to be exasperated of the lethargy conduct made by the plaintiffs.

Learned counsel appearing for the respondents submits that proceedings have been initiated before the National Company Law Tribunal with regard to the pre-existing disputes between the parties and the Company Law Tribunal is in seisin of the matter. We are not concerned with the maintainability of the suit at this stage. However, the suit should be restored upon payment of cost of Rs.5,000/- to be paid to

the Calcutta High Court Legal Services Committee within one week from date. Learned counsel appearing for the respondents does not object for payment of such cost to the Committee for noble purpose.

The aforesaid sum shall be utilised for the betterment of street children.

In the event the said sum is paid within the stipulated time, the suit shall be restored to its original file and the impugned order shall stand set aside.

The issue of maintainability of the suit is kept open.

In view of the above, the appeal is disposed of.

In view of disposal of the appeal, the application being CAN 1 of 2021 is also disposed of.

(Ajoy Kumar Mukherjee,J.)

(Soumen Sen, J.)

