

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION**

**F.M.A.T. 471 of 2022
With
CAN 1 of 2022**

**Pranab Bose
Vs.
Binod Kumar**

**Mr. Arif Ali
Mr. Santu Nandy** ... For the Appellant.

**Mr. Sayan Datta
Ms. T. Bag** ... For the Respondent.

Re: CAN 1 of 2022

The appellant before us is the buyer of some goods from the respondent.

The dispute between them is with regard to the price. The learned court below has granted an order of injunction restraining the respondent/seller from transferring the goods to any party.

S.D. Learned advocate for the appellant buyer admits before us today that Rs.3.97 lakhs is payable as unpaid price for the goods. However, he adds that because of the delay the goods are no longer required by him. He required those goods to carry out a contract with the Air Port Authority of India which could not be performed due to lack of these goods.

Learned counsel for the respondent submits that if that amount is received, his client would deliver the goods to the appellant.

We appoint Smt. Monimala Dey Basu, Advocate Bar Association Room No. 1 as a Special Officer at a remuneration 600 gms. to be shared equally by the parties to see whether the said sum of Rs.3.97 lakhs is paid by the appellant to the respondent within a week from date and to ensure that upon receipt of such payment the said goods are delivered to the appellant. The Special Officer shall file a short report before the learned court below.

On receipt of the report confirming completion of the above transaction, the court shall proceed to record that the interim applications before it would stand disposed of and concurrently pass direction for expeditious hearing of the suit, after vacating the interim order.

In case the appellant defaults in making payment the interim order of the learned court below shall forthwith stand vacated. The learned court below shall only pass direction for early hearing of the suit.

If the Special Officer finds that the appellant is willing to pay but the respondent is not in a position to deliver the goods, she shall record it in her report and the interim order passed by the learned court below will

continue, the interim applications would be disposed of and the suit expedited.

The above order is without prejudice to the rights and contentions of the parties in the suit.

With these directions the appeal and the connected application (CAN 1 of 2022) are disposed of.

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(I.P. Mukerji, J.)

(Biswaroop Chowdhury, J.)

