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Ct-08

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FMA 81 of 2022
with
I.A No. CAN 1 of 2019(Old No. CAN 775 of 2019)
CAN 2 of 2019(Old No. CAN 776 of 2019)
CAN 3 of 2019(Old No. CAN 782 of 2019)

Tarak Chandra Ghosh
Vs.
SurendraShah

Mr. Ujjal Roy
... For the Appellant

The appellant was prima facie found to be a debtor in a proceeding initiated by a creditor under the provision of the Provincial Insolvency Act, 1920.

It appears from the record that the Additional District Judge attached a sum of Rs.1,77,000/- out of retiring dues, arrear salary, bonus money, leave salary, half and full pay and retiring benefit money of the debtor in connection with a petition filed by Surendra Shah, under Sections 20 and 21 of the said Act, claimed to be a creditor.

Learned counsel appearing for the appellant submits that in view of the aforesaid attachment order retiral benefits of the appellant has been withheld by his employer.

In view of the fact that views expressed by the trial court was prima facie and thereafter because of the pendency of the appeal the appellant did not take step before the trial court, we are of the view that the trial court shall dispose of the Insolvency Case No. 07 of 2018 as early as possible.

We have been informed that the appellant has retired in the mean time and his retiral benefits have been attached by the railway

authority, even for the amounts not covered by the said order.

In the event, the trial court is approached, the learned judge shall dispose of the injunction application as well as the main case without granting any unnecessary adjournment to either of the parties, unless it is unavoidable.

We make it clear that while disposing of the injunction application as well as the main application the learned judge shall not be influenced by his earlier order and by our order.

In view of the above, FMA 81 of 2022 is disposed of.

In view of disposal of the appeal, nothing remains to be decided in the connected applications. CAN 775 of 2019, CAN 776 of 2019 and CAN 782 of 2019 are accordingly disposed of.

(Ajoy Kumar Mukherjee,J.)

(Soumen Sen, J.)

