

ORDER SHEET
APO/10/2022
WITH
AP/128/2021
IA NO: GA/1/2022
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE
(COMMERCIAL DIVISION)

BUMI GEO ENGINEERING LTD. AND ANR.
VS
SREI EQUIPMENT FINANCE LIMITED

BEFORE:

The Hon'ble JUSTICE I. P. MUKERJI
The Hon'ble JUSTICE ANIRUDDHA ROY
Date : 31ST JANUARY, 2022.

Appearance:
Mr. D. P. Dutta, Adv.
Mr. S. Ganguly, Adv.
Mr. S. Sen, Adv.
Mr. S. Ghosh, Adv.
Ms. A. Dutta, Adv.
...For the appellant

Mr. S. Banerjee, Adv.
...For the respondents

The Court : As the issue involved is very short, we propose to dispose of this appeal dispensing with all formalities.

It appears that in an application under Section 9 of the Arbitration & Conciliation Act, 1996 before the learned single judge, arising out of a loan/hypothecation agreement dated 30th June, 2019 between the parties, on 17th November, 2021, an order was passed appointing a receiver to take possession of some of the assets of the appellants on the assertion of the respondent that a sum of Rs.4 Crores was due and owing by the appellants to them.

The appellants took out an application for vacating this order on, inter alia, the ground that they had made substantial payment to the respondent, which they had willfully not recorded or disclosed before the Court.

By the impugned judgement and order dated 23rd December, 2021, the learned judge modified his earlier interim order dated 17th November, 2021 by stating that the assets mentioned therein would be those in the agreement being No.178962.

The learned judge specifically observed and held that sums were due and payable by the appellants to the respondent and that there were admitted amounts.

An interim order is temporary and discretionary. Once a discretion has been exercised by the learned single judge, the Court of appeal, it is well settled, would only interfere with it if there was gross and palpable error in the appreciation of facts or law or perversity or unreasonableness in the impugned judgement.

We do not find any such error.

For the above reasons, this appeal is dismissed with liberty to the respondent to apply before the learned single judge, if they are so advised, with a proposal to use the assets under the receiver on such terms and conditions as the Court may deem fit and proper. In case such an application is made, the learned single judge would consider the case afresh without being bound by the findings in the impugned judgement. Our observations will only be taken as tentative.

The connected stay application is disposed of accordingly.

(I. P. MUKERJI, J.)

(ANIRUDDHA ROY, J.)