OD-6

ORDER SHEET

IA No.GA 3 of 2022
IN
CS 77 of 2021
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

SURENDRA SINGH BENGANI
VS.
VIKASH BAID

BEFORE:
The Hon'ble JUSTICE ARINDAM MUKHERJEE
Date: 22nd December, 2022.

Mr. Virendra Singh Bengani, Advocate for the plaintiff.
Mr. Vipul Kundalia, Mr. Prithu Dudhoria, Advocates for Income Tax department.

The Court : This is an application by the plaintiff for modification of the order dated 30th November, 2022.

In the order dated 30th November, 2022 Mr. Vipul Kundalia appearing for Income Tax Department was directed to file the Vakalatnama. It is submitted by Mr. Kundalia that his junior Mr. Prithu Dudhoria will file the Vakalatnama. Mr. Prithu Dudhoria is permitted to file the Vakalatnama in this application by 23rd December, 2022.

The order dated 30th November, 2022 was passed recording the settlement of the suit between the parties by and under which the defendant agreed to pay a sum of Rs.25,32,192/- on account of principal and interest to the plaintiff and the plaintiff agreed to accept the same as full and final settlement of his claim as against the defendant. The defendant, however, produced a notice issued to him by the Income Tax department directing him to pay any money lying to the credit of the plaintiff with the defendant for being adjusted against the income tax dues of the plaintiff. The Income Tax department was, therefore, directed to appear though they are not parties to the suit. On that basis in the presence of the plaintiff, the defendant and the learned Advocate representing the Income Tax department, the order dated 30th November, 2022 was passed. By the said order the Income Tax department was permitted to withdraw the sum of Rs.25,00,000/- lying to the credit of the suit already deposited by the defendant with accrued interest. The balance portion of Rs.5,32,192 was directed to be paid directly to the Income Tax department by the defendant. The Income Tax department has received the said sum of Rs.5,32,192/- from the defendant. The Income Tax department has also withdrawn the sum of Rs.25,38,151/- from the Registrar, Original Side being the said sum of Rs.25,00,000/- with accrued interest. After the withdrawal and the payments made by the defendant to the Income Tax department as aforesaid, nothing further remains to be adjudicated by this Court as the suit stands disposed of. No orders, as prayed, to modify the order dated 30th November, 2022 can be also passed in view of the subsequent developments in terms of the order dated 30th November, 2022 as recorded hereinabove.

In the aforesaid facts and circumstances, the application is disposed of by permitting the plaintiff to agitate all the grounds made out in this application before the Income Tax department for refund of money, if any to the plaintiff.

(ARINDAM MUKHERJEE, J.)

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