IA No. GA 2 of 2021
IA No. GA 3 of 2021
IA No. GA 5 of 2022
APO No. 79 of 2021
with
AP No. 80 of 2021
IN THE HIGH COURT AT CALCUTTA
In appeal from its
ORDINARY ORIGINAL JURISDICTION
CIVIL APPELLATE JURISDICTION

Anoop Kumar Jindal & Anr.
Versus
Rakesh Kumar Jindal & Ors.

Before:
The Hon'ble Justice I. P. MUKERJI
And
The Hon'ble Justice ANIRUDDHA ROY
Date: 28th January 2022
(via Video Conference)

Appearance:
Mr.Sudip Deb , Advocate
Mrs. Laxmi Aggarwal, Advocate
Mr. Riju Ghosh, Advocate
for the appellants

Mr. Utpal Bose, Sr. Advocate
Mr. Aniruddha Mitra, Advocate
Mr. Pramod Kumar Bagaria, Advocate
for respondent nos. 1 & 2

Mr. Ajit Kumar Chaubey, Advocate
Mr. Rahul Kinkar Pandey, Advocate
Mr. Ayan Dutta, Advocate
Mr. Vinayak Chaubey, Advocate
for respondent no. 3

The Court: IA No. GA 2 of 2021

By the application (IA No. GA No. 2 of 2021), the appellants have invited this court to enter into an alleged dispute which has arisen or may arise with the lessor of premises no. 10B, Shakespeare Sarani, Kolkata – 700071 where the partnership firm carries on business with regard to the payment of lease rent.

In our opinion, this is an extraneous issue, completely different from the disputes involved in this litigation between the parties, which concern the affairs of the partnership business. Moreover, one of the parties to this alleged lease dispute, the lessor, is not a party to the arbitration agreement and is in no way otherwise involved in this lis pending between the parties.

Hence, we dispose of this application (IA No. GA 2 of 2021) on the basis of the above observations, granting liberty to the applicants to take steps as available to them in law, before the appropriate jurisdiction.

IA No. GA 3 of 2021
IA No. GA 5 of 2022
APO No. 79 of 2021

The application (IA No. GA 3 of 2021) is taken out by the first and second respondents in this appeal for a direction upon the appellants and the respondent no. 3 to pay them the amounts as prayed for in the application as reimbursement of the municipal tax allegedly paid by them.

The application (IA No. GA 5 of 2022) has been taken out by the appellants taking exception to the report filed by the Receiver.

This appeal (APO No. 79 of 2021) is from an order passed in an application under section 9 of the Arbitration and Conciliation Act, 1996, taken out post award.

Section 34 applications are pending in this court challenging the award. A subject matter of the award is the municipal tax due and payable by the partnership firm, including fixation of the liability of the firm for it, and apportionment thereof among the partners.

We are of the opinion that the subject matters of these two applications can be properly decided in the forum where the final award is under consideration.

In those circumstances, we dispose of each of these two applications (IA No. GA 3 of 2021 and (IA No. GA 5 of 2022) on the basis of the observations made above, giving leave to the applicants to urge the self-same grounds as made in these applications by way of an application or otherwise before the said forum.

All points urged in each of the applications are kept open. The records of this court may be relied upon if the learned judge so deems fit and proper for the purpose of adjudication of the issues involved in these applications.

Nothing remains in the appeal.

The appeal (APO No. 79 of 2021) is disposed of by this judgement and order.

(I. P. MUKERJI, J)

(ANIRUDDHA ROY, J.)

R. Bose