

20.07.2023

ASR 1.

**IN THE HIGH COURT AT CALCUTTA
COMMERCIAL CIVIL APPELLATE JURISDICTION
(COMMERCIAL DIVISION)**

FMAT (ARBAWARD) NO. 26 of 2023

Rajib Tibrewal

Vs.

Modello Ventures LLP & Ors.

With

CAN 1 of 2023

Mr. Jishnu Chowdhury

Mr. Soumabho Ghosh

Mr. Nikunj Berlia

Mr. Varun Kothari

Mr. Rohit Keshri

Ms. Soolini Bose

.....for the appellant

Mr. Jishnu Saha

Mr. Shaunak Mitra

Mr. Anil Chowdhury

Mr. Ishan Saha

.....for the respondents

As the point involved is very short, we are disposing of this appeal after dispensing with all formalities.

An extraordinary situation has to be faced by this court while disposing of this appeal.

In a writ application in this court (***WPA 8041 of 2023 M/s Modello Ventures LLP. -Vs.- The Indian Overseas Bank & Ors.***), the learned Single judge while disposing of the application permitted the bank to allow the writ petitioner (respondent no. 1 in this appeal) to operate the bank account after a period of eight weeks

from the date of communication of the order to the bank. The respondent no. 5 (the appellant) was granted liberty to obtain an appropriate order from a competent forum in the meantime.

The appellant did choose a forum which was thought to be competent i.e. the learned Commercial Court at Alipore instituted a Misc. Case (Arbitration) 27 of 2023 there. The application was moved before that court on 12th July, 2023. The records of that court suggests that the respondent herein had lodged their caveat dated 7th June, 2023.

21st July, 2023 was fixed as the date for hearing of the application under Section 9 of the Arbitration and Conciliation Act, 1996. Written objection, if any, could be filed in the meantime.

Mr. Chowdhury, learned counsel appearing for the appellant submits that the said period during which the respondent could not operate the bank account as prescribed by the writ court is expiring today. In spite of being conscious of the said order, the learned judge has fixed the matter a day after. That is principally the grievance of the appellant in this appeal.

We do not find any substance in the submission of learned counsel for the appellant that the learned judge had to fix a returnable date well in advance of expiry of the said time period.

At any rate, Mr. Saha, learned senior counsel appearing for the respondent submits that the status quo which was operative on the date of the said order passed by the writ court is being maintained by his client.

In the extraordinary facts and circumstance of the case and for the ends of justice, we observe and direct that this status quo be maintained by the respondent till tomorrow –21st July, 2023 or until any further order that may be passed by the learned court below.

We have not gone into the merits in the matter.

All points are kept open.

The appeal FMAT 26 of 2023 and the connected application CAN 1 of 2023 are disposed of.

(I. P. Mukerji,J.)

(Biswaroop Chowdhury,J)