

31-08-2023
Item no.13
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
(Commercial Division)

FMAT No.388 of 2023
Carbon Resources Private Limited
-vs-
Ispat Damodar Private Limited
with
CAN No.1 of 2023

Mr. Tilok Kumar Bose, sr. adv.
Mr. Soumabho Ghose, adv.
Mr. Anunay Basu, adv.
Ms. Ninita Rathi, adv. ...for the appellant

Ms. Sutapa Sanyal, adv.
Mr. Shamba Chakraborty, adv.
Mr. Koushik Chatterjee, adv. ...for the respondent

We have examined the report of the department.
Learned advocate-on-record for the appellant shall cure the defect, if any, to the satisfaction of the department.

We admit this appeal.

It is from an ex parte ad interim order of injunction of the learned court below restraining operation of the appellant's bank accounts as mentioned in the said order.

We are in a position to dispose of this appeal dispensing with all formalities.

We notice from the impugned judgement and order that the returnable date mentioned therein was 23rd August 2023. Now, we understand that the returnable date has been extended till 20th September 2023 with a direction upon the appellant and the respondent to file their written objection and reply respectively.

What is very strongly contended by Mr Tilok Bose, learned senior advocate representing the appellant-petitioner, is that a blanket attachment order has been passed by the

learned court below ex parte without existence of the circumstances to pass such order and without any reason.

Although Ms Sanyal appearing for the respondent tries to defend the impugned order, we find that there is much substance in the submission of Mr Bose.

However, we notice that the impugned judgement and order was made on 26th July 2023. By the returnable date, affidavits were required to be exchanged. Hence, whatever flaw there may be in the impugned order is capable of being cured, if the interim application is heard out in the presence of learned counsel for the parties and upon consideration of the affidavits filed.

In the facts and circumstances on an application being made by 6th September 2023, the learned judge of the court below shall prepone the first date of hearing of the interim application to a date not beyond 12th September 2023. Learned judge shall not be influenced by the impugned order. The question of grant of interim relief shall be examined afresh. All points are kept open before the learned court below.

The learned judge is requested to dispose of the interim application, preferably by 18th October 2023. Learned judge will also have the liberty to vacate or vary the ex parte interim order before disposal of the interim application, if adequate ground is shown.

The appeal and the connected application – FMAT No.388 of 2023 with CAN No.1 of 2023 – are disposed of.

[I.P. Mukerji, J]

[Biswaroop Chowdhury, J]

