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15-12-2023
(Ct. no.06)
debajyoti

**IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
APPELLATE SIDE**

FAT 329 of 2010

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IA NO:CAN/2/2013 (Old No:CAN/8971/2013)

**The Director, Public Vehicle Department,
Government of West Bengal & Ors.**

Vs.

Sri Kajal Kumar Roy

Mr. Arif Ali

... For the Respondent.

This first appeal is directed against a judgment and decree dated May 31, 2010 of the learned Alipore Court in the suit filed by the respondent herein being Money Suit No.1 of 2002. The suit was decreed for Rs.6,50,000/- along with interest at the rate of 5% per annum in the event the judgment-debtor failed to pay the decretal amount within three months.

At the time of admission of the appeal, a coordinate Bench, by an order dated January 07, 2013, directed the appellants to deposit Rs.7,00,000/- with the Registrar General of this Court by February 14, 2013. An unconditional order of injunction was passed restraining the plaintiff/respondent/decreed-holder from putting the decree into execution till February 14, 2013. Subject to deposit of Rs.7,00,000/-, such injunction order was directed to continue till the disposal of the application filed in the appeal.

We are told that the deposit was duly made by the appellants.

By an order dated August 07, 2013, another coordinate Bench directed the learned Registrar General to deposit the said amount of Rs.7,00,000/- in an interest bearing Fixed Deposit account with any nationalized bank. The lower court records were called for. Requisite number of informal paper books was directed to be filed.

The respondent/plaintiff/decreed-holder has taken out an application being CAN/2/2013 (Old No:CAN/8971/2013) for leave to withdraw the amount deposited with the learned Registrar General.

Nobody appears in support of the appeal even in the second call. No paper books have been filed. No steps have been taken by the appellants to have the matter heard out. The appeal is dismissed for default. Interim order stands vacated.

Insofar as the application of the respondent/plaintiff/decreed-holder is concerned, there is no reason not to allow the same. The plaintiff has been deprived of the fruits of the decree that he has obtained for a long time. Since the appellants have shown no interest in the appeal and the appeal has been dismissed for default, we permit the respondent/plaintiff/decreed-holder to withdraw the amount lying in the concerned bank where it has been deposited by the learned Registrar General. The respondent/plaintiff/decreed-holder shall be entitled to the entire sum lying in the account including the interest that has accrued on the principal sum of Rs.7,00,000/-. The respondent/plaintiff/decreed-holder may approach the learned Registrar General for the direction in this order being carried out.

The application being CAN 8971 of 2013 stands disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

(M. V. Muralidaran, J.) (Arijit Banerjee, J.)