

ORDER SHEET

APO/50/2023
With
WPO/722/2023
IA No. GA/1/2023

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

ATIBIR INDUSTRIES CO. LTD.
VERSUS
STATE BANK OF INDIA

BEFORE:
The Hon'ble JUSTICE I. P. MUKERJI
And
The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 12th June, 2023.

Appearance:
Mr. Ranjan Bachawat, Sr. Adv.
Mr. Suman Kr. Dutt, Adv.
Mr. Arijit Bardhan, Adv.
Mr. Soumyajit Mishra, Adv.
...for the appellant/petitioner

Mr. Joy Saha, Sr. Adv.
Mr. Santosh Kumar Ray, Adv.
Ms. Sonal Agarwal, Adv.
...for the respondent bank

Mr. Ratnanko Banerji, Sr. Adv.
Mr. Siddhartha Datta, Adv.
Mr. Deepanjan Dutta Roy, Adv.
Ms. Sanjana Jha, Adv.
Mr. Chetan Kabra, Adv.
...for CFM Asset Reconstruction Pvt Ltd.

The Court: On 28th April, 2023, we admitted this appeal.

We also passed an interim order that till 19th May, 2023 or until further orders whichever was earlier, the assignee of the respondent would not create any further assignment or third party interest in respect of the subject matter.

On 19th May, 2023, when the appeal and the stay application came up for further consideration, we extended our interim order made on 28th April, 2023 till

16th June, 2023, directing the appeal to come up for further consideration after the summer vacation on 12th June, 2023.

It has so appeared today.

We observe that, in the meantime, on 8th June, 2023 the writ application (WPO/722/2023) together with the application made by the assignee, Asset Reconstruction Company, CFM to be added as party, came up for consideration before a learned single judge of this Court. On the same day his lordship made an order adding the applicant as a party, directing affidavits to be exchanged in the writ application and posting it for hearing on 21st June, 2023.

One observation in the said order is of some importance. It is as follows :

“In the meantime, it is expected that the respondent Bank shall not proceed with the matter pending before the NCLT between the parties till 30th June, 2023, or until further orders, whichever is earlier.”

This appeal is against the refusal of the learned single judge to pass an interim order.

Since filing of the appeal and today some time has elapsed and in this time period the writ application has become ready for hearing after filing of affidavits.

The interim order made by us on 28th April, 2023 has also been continuing.

The above expectation of the learned single judge expressed on 8th June, 2023 is also being respected by the State Bank of India.

In our opinion, this appeal is a parallel proceeding to the one pending after filing of affidavits before the learned Single Judge. It might have a tendency to cause conflict of jurisdictions and orders.

It would be in the best interest of justice if on the existing status quo the writ application is heard out and disposed of by the learned single judge as early as possible. The existing status quo should be maintained only up to 15th July, 2023 after which it may only be extended by the learned single judge on very sufficient grounds only.

We order accordingly.

All points are kept open before the learned single judge.

The appeal (APO 50 of 2023) and the connected application (IA No. GA 1 of 2023) are disposed of.

(I. P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)