

APO/78/2023
AP/241/2023
IA No.GA/1/2023

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
COMMERCIAL DIVISION
ORIGINAL SIDE

RAVINDRA KUMAR CHOPRA
-VS-
SNEHLATA CHOPRA

BEFORE:
The Hon'ble JUSTICE I. P. MUKERJI

The Hon'ble JUSTICE BISWAROOP CHOWDHURY
Date : 19th July, 2023.

Appearance:
Ms. Manju Agarwal, Adv.
...for the appellant

Mr. Jishnu Chowdhury, Adv.
Mr. Suddhasatva Banerjee, Adv.
Mr. Soumavo Ghosh, Adv.
Mr. Subhankar Das, Adv.
..for the Respondent

The Court : We formally admit the appeal.

Order in terms of prayer (a) of the stay petition.

Considering the facts and circumstances, we dispose of the appeal today itself dispensing with all formalities and discharging all undertakings.

The impugned judgment and order was made on 8th May, 2023. Today, we have crossed the middle of July, 2023.

The principal allegation of Ms. Agarwal, learned advocate appearing for the appellant, is that the learned counsel who was appearing for her client before the learned trial judge was not properly informed and further that without giving an opportunity to file affidavits the interlocutory application was virtually allowed by passing orders in terms of prayers (a), (b), (c), (f) and (g) of the notice of motion. These prayers are set out herein:

“(a) Injunction restraining the respondent and his men, servants, agents and associates from carrying out any business of the same nature as and competing with Machinery Agencies.

(b) Injunction restraining the respondent from unilaterally operating the bank accounts of the Agartala Branch, viz, Yes Bank, Agartala Branch being Account Number 015588400000011 & 015563700000206, HDFC Bank, Agartala Branch being Account Number 50200050947501 & 50200049828930.

(c) Injunction restraining the respondent from using the assets of the concerned firm for their own parallel business without prior intimation and written consent of the petitioner.

(f) Direction upon the respondent to disclose, give inspection and provide copies of the complete accounts of M/s. Ravindra Kumar Chopra and M/s. Gouranga Rubber House to the petitioner.

(g) Direction upon the respondent to provide the login and password of the Income Tax Department of the Firm and GST Department portal accounts of the Agartala Branch of the Firm to the petitioner.”

It is a partnership dispute. It involves two brothers. The application under Section 9 of the Arbitration and Conciliation Act, 1996 has been founded on the information gathered by the respondent/petitioner that the appellant/respondent partner was carrying on similar business as that of the partnership firm and was making illegal gain out of it. The application also contained other allegations of wrong doing against the other partner. It was said that the partnership business was being carried on by the appellant in the name and style of M/s. Gouranga Rubber House and in the name of M/s. Ravindra Kumar Chopra.

These allegations are seriously denied by the respondent.

Ms. Agarwal submits that the business of M/s. Gouranga Rubber House are being carried on by third parties who have no connection with her client.

All these allegations need to be proved or disproved, *prima facie*, at this stage of the proceedings.

We are told by Mr. Jishnu Chowdhury, appearing for the respondent that after filing of affidavits, the interim application is ready for hearing before the learned single judge and that it is the very next matter in the list.

In those circumstances, we observe and direct that the interim application and the prayers contained therein, to be more specific prayers (a), (b), (c), (f) and (g) of the notice of motion have to be considered afresh by the learned single judge upon taking into account the affidavit-in-opposition filed by the appellant/respondent and hearing his learned counsel. Only then should the Court consider continuance of the impugned order, varying or vacating them.

We also observe and direct that if from 8th May, 2023 till today there is any allegation of violation of the order dated 8th May, 2023 neither any party nor the Court shall take steps in contempt or for enforcement of those orders.

We make it absolutely clear that from today, the learned single judge, on consideration of the case, may pass any order that his lordship may deem fit and proper. Considering the fact that the Court may not be in a position to take up the matter today and might take it up on a later day, the status quo as of today shall be maintained by the parties, till altered by the Court of first instance.

The appeal (APO/78/2023) and the application (IA No.GA/1/2023) are disposed of.

(I. P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)

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