

OD-4

APOT/299/2023
with
EC/338/2019
IA No. GA/1/2023

IN THE HIGH COURT AT CALCUTTA
In appeal from its
ORDINARY ORIGINAL CIVIL JURISDICTION
CIVIL APPELLATE JURISDICTION

Satyendra Singh & Ors.
Versus
CJ Darcl Logistics Ltd.

Before:

The Hon'ble Justice I. P. MUKERJI

And

The Hon'ble Justice BISWAROOP CHOWDHURY

Date: 18th September, 2023.

Appearance:

Mr. Swatarup Banerjee, Advocate

Mr. Ayan Dutta, Advocate

Mr. Rajib Mullick, Advocate

Ms. Sonia Mukherjee, Advocate

...for the appellant.

Mr. S. Chakraborty, Advocate

Mr. S. Das, Advocate

Mr. Chiranjit Pal, Advocate

...for the respondent.

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

We admit the appeal. We are in a position to dispose of it dispensing with all formalities.

A fundamental point of law is involved in this appeal. If execution of a decree by sale of an immovable property is levied, the execution application must be entertained, tried and determined by the Court having jurisdiction over the property as the original Court or the transferee Court of execution. Any other court, in our opinion, would be inherently lacking in jurisdiction to entertain the application. Although in this case this Court is the transferee Court by virtue of an order passed by another Court, learned counsel for the appellant denies

that this Court has the territorial jurisdiction over the property which is sought to be attached and sold in execution of the decree in question.

Having heard learned counsel for the parties and perused the records of this case, we are of the view that there is substance in the contention of the appellant. Since a question of inherent lack of jurisdiction is involved, although this execution case has been transferred to this Court, it retains its power to examine its jurisdiction and to pass orders accordingly, in our considered opinion.

In that view of the matter, we set aside the judgment and order dated 21st August, 2023 only to remand the execution case back to the executing court with a direction that it should determine whether it has territorial jurisdiction over the subject-matter of execution and then to dispose of the case accordingly.

The appeal and the connected application are disposed of.

As affidavits were not invited, allegations contained in the stay application are deemed not to have been admitted.

(I. P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)