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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/431/2023
IA NO: GA/1/2023
YES BANK LIMITED
VS
DILEEP SINGH MEHTA AND ORS.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
DATE : 20th DECEMBER, 2023.

Appearance :
Mr. Utpal Bose, sr. Adv.
Ms. Suchismita Ghosh, Adv.
Mr. Abir Lal Ghosh, Adv.
...for Bank
Mr. S.N. Mookherjee, Sr. Adv.
Mr. Soumya Mazumder, Adv.
Mr. Manoj Malhotra, Adv.
Mr. Subrajyoti Mookerjee, Adv.
Ms. Suchita Sharma, Adv.
...for O P.

The Court :- This intra-Court appeal by the respondent in WPO 1800 of 2023 is directed against the order dated 29.11.2023. By the said order the Learned Single Bench granted an order of Stay of the communication sent by the appellant bank dated November 22, 2023. The principal grievance of the appellant appears to be that they were not heard in the matter when the interim order was granted. If that be the case the appropriate court to be adopted by the appellant that is to move the learned Single Bench and seek for

appropriate direction or modification or vacating the order of stay granted by the learned Single Bench.

In this intra Court appeal the issues which have been raised in the memorandum of grounds cannot be adjudicated since this contentions were not placed before the learned Single Bench. Therefore, the appellant are required to move the learned Single Bench for appropriate direction or modification of the interim order dated 29.11.2023. Learned standing Counsel for the respondent/writ petitioner submitted that salaries have to be disbursed to the staff of the institution and in this regard requisitions have been made to the appellant bank and they are kept pending. Further it is submitted that out of the sale proceeds of the university hostel building a sum of more than Rs.24 crore was realized which was paid to the bank out of which Rs.14 crore has been appropriated towards the loan account and remaining Rs.10s crores is lying with the appellant bank. It is submitted that in terms of condition stipulated by the bank the requisition made by the respondent writ petitioner can be honoured and payment be effected from and out of the said sum of Rs.10 crore which is lying with the appellant/bank. The learned Advocate for the appellant submitted that the said sum of Rs.10 crore has been put in a freeze account and the same cannot be utilized and the requisitions, if any, submitted by the respondent/writ petitioner will be honoured subject to availability of funds from and out of receivables of the respondent Institution.

As mentioned earlier we cannot test the correctness of the order on the grounds, which are never placed before the learned Single Bench. Therefore,

the appellant has to move the learned Single Bench for appropriate order as they seek for. In the meantime, the appellant bank shall consider the two requisitions, which are now pending with the appellant submitted by the respondent/writ petitioner.

With the above observations the appeal stands disposed of.

Needless to state that the dispute between the parties appear to lie in a narrow campus and substantial sums of money have been recovered by the appellant bank from and out of the sale proceeds of the university building. We are also informed that there are assets, which have been mortgaged to the appellant bank to secure the financial assistance extended to the respondent/writ petitioner. Therefore, we are of the view that this is a fit case where the parties can discuss the matter and come to a mediation settlement so that a finality can be arrived at in the dispute.

Certified copy of the impugned order is taken on record.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA,J.)