

07-05-2024
Item no.3 CD
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
(Commercial Division)

FMAT(ARBAWARD) No.17 of 2024
Gora Chand Sadukhan

-VS-

Amarnath Sadukhan & Anr.

with

CAN No.1 of 2024

and

CAN No.2 of 2024

Mr. Rahul Karmakar

Ms. Irish Kundu ...for the appellant

Mr. Chayan Gupta

Mr. Soumadeep banerjee ...for respondent no.1

The application (CAN No.1 of 2024) is for
condonation of delay in preferring the appeal.

Sufficient cause is shown. We condone the delay.

The section 5 Limitation Act application is, thus,
allowed.

The department is directed to register the appeal.

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

This appeal is from an ex parte ad interim order
dated 6th October 2023 passed by the learned court
below. It directed the appellant to disclose the accounts
of his proprietorship business "Sadukhan Medical Hall".

Mr Karmakar, learned advocate appearing for the
appellant, submits that the learned commercial court

below could not have directed his client to disclose accounts at this stage.

As we have stated, the impugned order was made on 6th October 2023. We have had occasion only today to consider admission of the appeal and the prima facie correctness of the exercise of discretion by the learned court.

We are told that the application, after directions for filing affidavits, is scheduled to be heard before the learned court below in early June 2024.

In those circumstances, without at this stage scrutinising the impugned order, we direct that the learned court below will hear and dispose of the interim application within six weeks from the date it is fixed for hearing, upon hearing the parties and by a reasoned order.

The appellant shall keep his accounts up-to-date with regard to the said proprietorship business but shall not be under any obligation to disclose the same to the respondent at this point of time. Such disclosure shall depend upon the order to be passed by the learned court below in the interim application upon final hearing.

In respect of any alleged violation of the impugned order since 6th October 2023, the respondent shall only proceed to take steps after final disposal of the interim application, upon obtaining leave of the learned court below to proceed in respect of the period in which the proceedings were pending before it, till date which leave shall be granted after careful consideration of all facts and circumstances.

The appeal and the stay application – FMAT(ARBAWARD) No.17 of 2024 with CAN No.2 of 2024 – are accordingly disposed of.

As affidavits have not been invited, the allegations contained are deemed not to have been admitted.

[I.P. Mukerji, J]

[Biswaroop Chowdhury, J]