

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

IA NO: GA/1/2024
APOT/72/2024
WITH
ACR/2214/1987

PINAKI GHOSH
VS
SMT. SUSMITA ROY & ORS.

BEFORE
The Hon'ble Justice I.P. MUKERJI
-And-
The Hon'ble Justice MD. SHABBAR RASHIDI
Date: 4th April, 2024

Mr. Jhuma Chakraborty with
Mr. Rahul Kr. Saha, Advs.
...for the appellant.

Mr. Surajit Nath Mitra, Sr. Adv.
with Mr. Deepnath Chowdhury &
Mr. Subir Sabud, Advs.
...for respondents.

Mr. Nirmalya Dasgupta, Adv.
... for the present receiver.

The court: We have heard out this appeal, dispensing with all formalities.

This is an extra-ordinary appeal. The Receiver who was discharged by the learned single judge has preferred this appeal against such discharge.

The Receiver is an officer of the court and discharges his duties at the pleasure of the court. The court retains the right to discharge the Receiver at any point of time. He does not have any right to remain in office.

By a judgement and order dated 9th February, 2024, the appellant/Receiver has been discharged with reasons and a new Receiver appointed in his place and stead with a direction on the outgoing Receiver to hand over all documents to the incoming Receiver.

The outgoing Receiver is directed to immediately comply with the order of the learned single judge dated 9th February, 2024 and also the subsequent order dated 19th March, 2024 within one week from date.

While disposing of this appeal, we find that the Receiver was appointed by an order dated 6th September, 2017 made by Mr. Justice Soumen Sen. He was directed to act on the same terms and conditions on which an earlier Receiver was appointed. It appears from the records that the earlier appointed Receiver received only initial remuneration of 200 GMs.

There is no doubt that if the court discharges the Receiver, he has to hand over charge forthwith to the newly appointed Receiver. But it is also very important that at the time of discharge, the Receiver is adequately remunerated for the work he has done.

It is contended on behalf of the respondent nos.1 and 2 that the Receiver has, on his own, appropriated sums from the funds lying in his hands, towards his remuneration which is not denied by the Receiver.

This Court deprecates, most strongly this act of the Receiver of appropriating money to himself towards his remuneration, without any order from the Court. Nevertheless we note that this allegation is not reflected in the impugned order dated 9th February, 2024.

In that view of the matter, leave is given to the outgoing Receiver to apply before the learned single judge to claim remuneration that may be payable to him on his discharge. In that event, the Court shall enquire into the amount which the Receiver has appropriated to himself from the fund in his hands and deduct such sum from the remuneration adjudged to be payable to him.

For the reasons above, we find no merit in this appeal.

Accordingly, the appeal (APOT 72 of 2024) and the connected application (IA No.GA/1/2024) are hereby dismissed with the above observations.

(I.P. MUKERJI, J.)

(MD. SHABBAR RASHIDI, J.)

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