

IA No: GA 1 of 2024
APOT No. 96 of 2024
with
CS No. 254 of 2021
IN THE HIGH COURT AT CALCUTTA
In appeal from its
ORDINARY ORIGINAL CIVIL JURISDICTION
CIVIL APPELLATE JURISDICTION

Dhan Daulat Holding Ltd.
Versus
Jeewanlal (1929) Ltd.

Before:
The Hon'ble Justice I. P. MUKERJI
And
The Hon'ble Justice BISWAROOP CHOWDHURY
Date: 13th March 2024

Appearance:
Mr. Sabyasachi Choudhury, Advocate
Mr. Rohit Banerjee, Advocate
Ms. Sananda Ganguli, Advocate
Bhagyashree Kanjilal, Advocate
for the appellant

Mr. Pradip Kr. Dutta, Sr. Advocate
Mr. Farhan Ghaffar, Advocate
Ms. Navneet Bhotika, Advocate
Rittick Choudhury, Advocate
Mr. Sanjib Mandal, Advocate
for the respondent

Mr. Diptomoy Talukder, Advocate
Mr. Rahul Mukherjee, Advocate
for the applicant

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

We are in a position to dispose of the appeal today itself
dispensing with all formalities.

The impugned judgment and order dated 8th March 2024 has to
be set aside for more reasons than one.

The interim order was continuing in the suit. The matter was
listed as "To Be Mentioned" before the learned single judge for the
purpose of extension of the interim order. Without any change of
circumstances having occurred and the court being unable to take up
the application for hearing, the interim order ought to have been
extended for such period as the learned single judge deemed fit and
proper.

The prayer for extension of interim order was not made because of some accommodation being sought by the appellant/plaintiff. It was because the interim order was expiring and the learned judge with regular determination was on leave and unable to take up the matter.

In those circumstances, the interim order ought to have been simply extended in a routine manner and ought not to have been extended and conditioned with a direction on the respondent/defendant to pay “50% of the total outstanding dues i.e. Rs.35 lakhs by 14th March, 2024. In default of payment, the interim order shall stand automatically vacated.”.

This condition ought not to have been imposed for the additional reason that the entire amount is disputed.

For these reasons, we set aside the order dated 8th March 2024.

We request the learned single judge to hear out the interim application as early as possible.

We extend the interim order existing prior to 8th March 2024 till 20th March 2024.

Further extension , if any, of the interim order may be prayed before the learned single judge.

All points are kept open. We have not gone into the merits of the matter.

This appeal (APOT 96 of 2024) and the connected application (IA No: GA 1 of 2024) are accordingly disposed of.

(I. P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)