

ORDER SHEET

IA NO: GA 1 of 2024
APOT No. 178 of 2024 with
WPO 101 of 2016
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

THE CALCUTTA TRAMWAYS CO. (1978) LTD. PRESENTLY WEST
BENGAL TRANSPORT CORPORATION LTD AND ANR.

VS
SUDIST KUMAR JHA AND ORS.

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

The Hon'ble JUSTICE UDAY KUMAR

Date : 16th May, 2024.

Ms. DeblinaChattaraj led by
Mr. Niladri Bhattacharjee, Adv.
...For the Appellant
Mr. Supratick Syomal, Adv.
Ms. Somosreedebi Dutta, Adv.
...For the Respondent
Mr. Dipnath Roy Chowdhury, Adv.
...for the State

The Court : By consent of the parties, the appeal and the
application are taken up together and disposed of by this order.

Learned counsel for the petitioner submits that while the
appellants are not averse to the idea of consideration of the
representation by the Managing Director of the Corporation, however,

the observation made in paragraph 11 of the impugned order that the note by the Chairman of the appellant no. 1 on the representation of the petitioner dated 26th September, 2013 appears to be cryptic and that it did not consider Rule 55(4) of the said Rules would create difficulty for appellant no. 2 to decide the matter in terms of the order passed by the learned Single Judge. The only impediment we foresee is because of the hierarchy the Managing Director might be shy to ignore the note of the Chairman in implementing the order of the learned Single Judge. We can only remind the appellant no. 2 that he is obliged to act on the basis of the order passed by the learned Single Judge and in deciding the said matter he cannot be influenced by the observation of the Chairman or any remark made by the learned Single Judge with regard to the cryptic note of the Chairman and non-consideration of Rule 55(4) of the said Rules. We do not find any infirmity in the order as the reason for such observation by the learned Single Judge in paragraph 11 is adequately borne out from the observation made in the earlier paragraphs of the said order.

Hence, we do not find any reason to admit the appeal or modify the observation made by the learned Single Judge in paragraph 11 of the said order. We are unable to accept the submission on behalf of the appellant that there is a mandate to arrive at a definite finding

in favour of the writ petitioner. The Managing Director was directed to consider Rule 55(4) of the relevant Rules while deciding the representation notwithstanding any cryptic comment made by the Chairman.

It is needless to mention that the decision of the Chairman cannot influence the Managing Director when he was directed by the learned Single Judge to consider the matter and not to act as a subordinate officer to the Chairman for the purpose of deciding the matter.

The appeal and the application are accordingly stand dismissed.

(SOUMEN SEN, J.)

(UDAY KUMAR, J.)

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