

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

IA NO: GA/1/2024
APO/91/2024
WITH
EC/1071/2015

SANJAY KHEMANI
VS
NPR FINANCE LIMITED

BEFORE
The Hon'ble Justice I.P. MUKERJI
-And-
The Hon'ble Justice BISWAROOP CHOWDHURY
Date: 26th June, 2024

Mr. Utpal Bose, Sr. Adv. with
Mr. Megahajit Mukherjee,
Mr. Debdut Mukheerjee,
Mr. Vivek Basu &
Ms. Sonia Das, Advs.
...for the appellant.

Mr. Reetobroto Mitra with
Ms. Radhika Singh,
Ms. Nandini Mitra &
Mr. Sourajit Dasgupta, Advs.
...for the respondent.

Order in terms of prayer (a) of the stay petition was granted earlier.

After hearing learned counsel for the parties we are in a position to dispose of this appeal itself, dispensing with all formalities.

At the outset, Mr. Reetobroto Mitra, learned advocate for the respondent, submits that the impugned order has been carried out by due service of the notice on the noticees mentioned in the impugned judgement and order.

With regard to the point raised by Mr. Utpal Bose, learned senior advocate for the appellant, that the noticees under the impugned judgement and order are not judgement debtors and cannot be noticed or compelled to take part in the proceedings, we rule that at this stage we shall not stop issuance or service of the notice, as directed by the court. However, it would be the duty of the respondent to establish before the court that the noticees are proper or necessary parties or their presence in the proceedings is required. It would also be open to the appellant to

submit and establish before the court that he cannot be made a party to the execution proceedings.

Furthermore, it would also be open to the appellant to contend before the learned trial judge that the debt which the respondent seeks to realize in the execution proceedings, falls within the moratorium referred to in Sections 95 and 96 of the Insolvency and Bankruptcy Code, 2016.

In fact, Mr. Reetobroto Mitra, learned advocate for the respondent, has shown us an order of the executing court dated 18th October, 2023 in the self same execution application keeping all points open.

After considering these contentions, the court shall proceed further with the execution proceedings.

With the above observations and directions this appeal (APO/91/2024) and the connected stay application (IA NO: GA/1/2024) are disposed of.

As affidavits were not invited, the allegations contained in the application are deemed not to be admitted.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)