

ORDER SHEET

APOT/204/2023
WITH
CS/657/1990
IA NO: GA/1/2023

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

THE WEST BENGAL BOARD OF SECONDARY EDUCATION
VERSUS
VISHNU NARAYAN KASHYAP

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 23rd December, 2024.

Appearance:

Mr. Surajit Nath Mitra, Sr. Adv.

Ms. Koyeli Bhattacharya, Adv.

Mr. Sourav Sengupta, Adv.

Mr. Aman Baid, Adv.

..for the appellant

Ms. Madhupriya, Adv.

Mr. Aniruddha Sinha, Adv.

...for the plaintiff/petitioner

1. The appellant is in possession of a valuable property. It seems that after cross-examination of the plaintiff's witness, the appellant has not adduced any evidence.
2. Mr. Surajit Nath Mitra, learned senior counsel appearing on behalf of the appellant submits that on an earlier occasion the parties were

directed to negotiate for enhancement of the occupation charges. Mr. Mitra submits that the appellant is in need of the premises.

3. However, we could not find any plausible explanation of the appellant for not presenting its witness for chief and cross although the evidence of the plaintiff's witness was concluded on 9th March, 2010.
4. Keeping in view that the suit has not been progressed thereafter, although interlocutory applications were filed from time to time, we feel that a liberty should be given to the appellant to adduce evidence in the suit subject to certain conditions.
5. The appellant shall deposit a sum of Rs.10 lakhs with the Registrar, Original Side, High Court within a period of a fortnight from date and in the event such deposit is made, the Registrar, Original Side shall invest the said amount in a fixed deposit account with any nationalised bank yielding highest return and shall keep the said fixed deposit account renewed from time to time till the disposal of the suit.
6. The appellant undertakes that the appellant shall abide by the direction of the learned Single Judge with regard to the conduct of the proceedings and shall not fail to appear and produce its witness as and when directed.
7. There should not be any lack of due diligence on the part of the appellant in presenting its witness and participation in the said proceeding.

8. The hearing of the suit shall remain stayed for a period of fortnight.
9. In the event the said amount is not deposited, we would request the learned Single Judge to fix a date for arguments and dispose of the suit as expeditiously as possible.
10. We have been informed that the argument of the plaintiff had commenced and it appears from the order dated 11th January, 2023 that the matter was directed to appear on 2nd February, 2023 for further argument. However, the hearing is not concluded.
11. The appeal and the application are disposed of. However, there shall be no order as to costs.
12. The advocate-on-record for the plaintiff shall be intimated as soon as the said deposit is made.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)