

ORDER

OD – 2

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE
(COMMERCIAL DIVISION)

APOT/240/2023
IA NO: GA/1/2023
CS/228/2021

KRISHNA KUMAR JALAN AND ORS.
VS.
DEEPAK KUMAR GUPTA

BEFORE:

THE HON'BLE JUSTICE HARISH TANDON
AND
HON'BLE JUSTICE PARTHA SARATHI SEN

Date : 7th October 2024.

APPEARANCE:

Ms. Arpita Sah, Advocate
Ms. Khushboo Chaudhary, Advocate
Mr. Shashwat Nayak, Advocate
... for appellants.

Mr. Ganesh Jajodia, Advocate
...for Special Officer.

The Court:- This appeal arises from a portion of an order dated 21st June 2023 passed by the Single Bench in GA/1/2021 and GA/3/2022 filed in connection with CS/228/2021 by which the interim order prayed for was refused. We had the occasion to peruse the impugned order dated 21st June 2023 whereby both the aforesaid applications were disposed of directing the Special Officer to remain in possession of the licensed premises as well as the movables lying therein as indicated in the inventory list prepared by him at the time of taking such possession.

In course of the hearing, it was pointed out that the Division Bench while considering the instant appeal passed a direction upon the Special Officer to find out buyers of the said movable properties shown in the inventory list, but

the Special Officer could not find the prospective buyers in this regard. A further direction was passed upon the plaintiff to find out the buyer through a private treaty, yet no buyer could be found out. The Single Bench categorically observed that the averments made in the aforesaid application taken out by the plaintiff do not warrant any order to be passed for interim sale of the attached articles because of the ultimate relief claimed in the said suit. However, the Single Bench confirmed the interim order of attachment and an opportunity was granted to the plaintiffs to seek sale of the movable articles upon obtaining a decree either in a summary form or otherwise.

Though the coordinate Bench passed an interim direction to sell the movable articles, but, since no prospective buyers could be found out, there is no point in keeping the instant appeal pending. Apart from the same, liberty has already been given to the plaintiff to seek for sale of those attached articles shown in the inventory list prepared by the Special Officer at a later stage of the proceedings, to which we do not think that any interference is warranted. It would be an idle exercise to keep the appeal pending when the suit has already matured considerably. Therefore, the appeal and applications are disposed of with the finding that disposal of the appeal would not stand in the way of the plaintiff seeking further direction for sale of the movable properties as and when the occasion so arises.

(HARISH TANDON, J.)

(PARTHA SARATHI SEN, J.)