

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

IA NO: GA/1/2023
APOT/357/2023
WITH
CS/475/1990

LAKTARIA (INDIA) PVT. LTD.
VS
LAKTARIA LIMITED AND ORS.

BEFORE
The Hon'ble Justice I.P. MUKERJI
-And-
The Hon'ble Justice BISWAROOP CHOWDHURY
Date: 30th January, 2024

Mr. Reetobroto Kr. Mitra with
Mr. Kuleep Mullick,
Ms. Atasi Sarkar &
Ms. Shukla Maity, Advs.
...for the appellant.

Mr. Ranjan Deb, Sr. Adv.
with Mr. Sarathi Dasgupta,
Mr. Rohitendra Deb,
Mr. Pratik Ghose &
Mr. Avishek Roy Chowdhury, Advs.
...for the respondent.

The appellant is aggrieved by the order dated 5th September, 2023 passed by a learned single judge disposing of two applications GA/1/2002 and GA/1/2002.

The appeal is preferred by the defendant. The principle ground of challenge to be seems that the suit is pending from 1990 and that in the facts and circumstances of the case there was absolutely no scope of any direction to file supplementary affidavits in a pending application as sought to be directed in the impugned order.

Mr. Ranjan Deb, learned senior advocate appearing for respondents takes the objection that the impugned order is not appealable as it is not a final judgement or order affecting the substantive rights of the parties under clause 15 of the Letters Patent.

Prima facie we are of the opinion that even this procedural order could have a direct or indirect effect on the substantive rights of the appellant. It is said that by obtaining such an order the respondents/plaintiffs are keeping the suit pending and asserting the

rights claimed therein. Thus it is appealable under clause 15 of the Letters Patent. We are not going into that question deeper than at the prima facie level for the reason that this proceeding is pending in this Court for nearly 35 years now and we have learnt that the suit is in every respect ready for trial after filing of written statement, discovery of documents and so on.

We dispose of this appeal and the connected application with a request to the learned single judge taking up suits to try and determine the suit along with all pending applications as expeditiously as possible preferably within six months from date.

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

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)