

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

IA NO: GA/1/2023
APOT/358/2023
WITH
CS/208/2018

ASHOK RAMNIKLAL MANSATA
VS
BHARAT GIRDHARDAS MANSATA & ORS.

BEFORE
The Hon'ble Justice I.P. MUKERJI
-And-
The Hon'ble Justice BISWAROOP CHOWDHURY
Date: 24th January, 2024

Mr. Rupak Ghosh with
Mr. Ayan Dutta,
Mr. Abhijit Sarkar &
Mr. Abhik Chitta Kundu, Advs.
...for the appellant.

Mr. Debnath Ghosh with
Mr. Biswaroop Mukherjee,
Mr. Aniket Chowdhury &
Ms. Aritra Chakraborty, Advs.
...for respondents.

We have been provided very valuable assistance by learned counsel appearing for the parties.

On principle we do not find any error in the impugned judgement and order dated 11th September, 2023. But it appears that while granting reliefs, the learned judge strictly followed the prayers made in the application for interim relief and has made his order accordingly. The result is that this order might fail to provide the interim reliefs or the protection which may have been conceived by the court.

In those circumstances we dispose of this appeal and the connected application (GA/1/2023) after dispensing with all formalities by modifying the impugned judgement and order to the following extent :

The appointed Special Officer shall visit the subject premises upon notice to the parties, inspect the same and provide an account of the number of persons in occupation thereof, the area and description of each occupation and the occupation charges, if any, paid by each of them.

We also clarify that the Special Officer shall not demand any occupation charges to be paid. If any occupier is not paying occupation charges, the Special Officer will note it and the area under his occupation. The Special Officer will also, on consideration of the documents, determine the municipal tax due and payable in respect of the said premises. He shall also open a bank account with the State Bank of India, Kolkata High Court Special Branch, if not already opened and deposit thereat the monthly occupation charges paid to him, after payment of expenses. He shall not allow any fresh induction of occupants into the premises and ensure that no third party interest is created.

It would be proper, instead of disposing of the interim application, it is kept pending with a direction upon the Special Officer to file his report before the learned single judge by 2nd February, 2024.

The interlocutory application is remanded to the learned single judge for incidental directions after receipt of the Special Officer's report.

We further direct that our interim order dated 18th October, 2023 will continue till disposal of the interlocutory application before the learned single judge.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)