

OD-1

ORDER SHEET
APOT/399/2023
WITH
CS/129C/1996
CS/100022/1996
IA NO:GA/1/2024
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

MESSERS BINAGURI INVESTMENTS PVT. LTD.
Versus
GOUTAM ROY AND ORS.

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA
AND

The Hon'ble JUSTICE AJAY KUMAR GUPTA

Date : 5th September, 2024.

Appearance:

Ms. N. Chatterjee, Adv.; Mr. S. Sen, Adv. appear.
Mr. B. Chatterjee, Adv.; Mr. S. Chakraborty, Adv.; Mr. R. Banerjee, Adv.; Ms.
M. Halder, Adv.; Mr. S. Bhattacharjee, Adv. appear.

1. The Court: The appeal is directed against the order dated September 27, 2023, passed by a Single Bench.
2. An interlocutory application for dismissal of the suit on the basis of the averments made in the application that the suit is barred by limitation was considered and rejected.
3. The Single Bench, inter alia, held that limitation is a mixed question of fact and law and has left the matter to be decided as a preliminary issue in the suit.

4. During the pendency of this appeal, the suit was directed to be proceeded with.
5. It is submitted that the evidence of the plaintiff has already commenced.
6. In that view of the matter, this Court is of the view that the impugned order calls for no interference. The defendant will have the opportunity to canvass all points on the question of limitation after the evidence is led by the parties.
7. In respect of the preliminary issue of limitation, after hearing of the arguments, the suit court shall be free to decide the matter on the basis of the facts and the evidence that have come on record without being influenced by any observation made in the impugned order or those passed in course of the appeal.
8. APOT/399/2023, along with connected application, if any, is thus disposed of. There will be no order as to costs.

(RAJASEKHAR MANTHA, J.)

(AJAY KUMAR GUPTA, J.)