

OD-10

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/440/2023
WITH EC/206/2019
IA NO: GA/1/2023

OM SHIVAM MATERNITY AND NURSING HOSPITAL PVT. LTD. AND ORS.
VS
KOTAK MAHINDRA BANK LIMITED AND ANR.

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 20th November, 2024.

Appearance:

Mr. Farhan Ghaffar, Adv.

Mr. Shreya Srivastava, Adv.

Mr. Ankit Chaturvedy, Adv.

Mr. Zafar Jilano, Adv.

...for the appellant.

The Court:- The appeal is arising out of an order dated 1st December, 2023 in an execution proceeding. The learned single Judge has recorded that in spite of notice the judgment debtor no.2 was not represented. Accordingly, let warrant of arrest be issued against the judgment debtor no.2. The matter is made returnable on 19th December, 2023.

In the application and the appeal it has been stated that judgment debtor no.2 was suffering from spinal injury and accordingly could not have travelled from Surat, Gujarat on the date fixed. However, judgment debtor no.1 was present. The reason for non-appearance of the judgment debtor no.2 was not explained on the date when the impugned order was passed nor it appears that any medical document was produced to show physical inability of the award

debtor no.2 on the date fixed. In any event, when the matter was made returnable on 19th December, 2023, no order of stay was operating against the said judgment debtor no.2 and nothing to bring it in the application after it was filed on 8th December, 2023.

In view of such facts, we are not inclined to interfere with such order. However, we record that on 15th January, 2024 learned single Judge has stayed the impugned order upon payment of a sum of Rs.5,00,000/- and copy of the said order has been produced by the learned Counsel representing the appellants. Copy of the said order is kept with the record.

The appeal and applications are disposed of.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)