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28.07.2025
Court No. 12
S.G. (p.a)

CAN 2 of 2025
in
MAT 242 of 2024
Arising out of
WPA 11783 of 2019

A.P. Fashions (Private) Limited and Anr.
Vs.
The State of West Bengal & Anr.

Mr. Soumik Ghosh
Ms. Karuna Bose
Mr. Shyamal Kr. Mukherjee
... for the Appellants.

Mr. Nayan Rakshit
Mr. Nilay Rakshit
... for the respondent No. 2

Mr. Jayanta Samanta,
Mr. Supriya Majumder,
...for the State.

1. An appeal by the appellants/applicants being MAT No. 242 of 2024 was dismissed by the Division Bench vide order dated April 29, 2024.

2. The applicants as above, have filed the application No. CAN 2 of 2025 seeking modification of the said order of the Division Bench dismissing the appeal No. MAT 242 of 2024, that is, dated April 29, 2024.

3. Parties are represented.

4. Learned Advocate Mr. Soumik Ghosh appearing for the appellants/applicants has submitted by referring to Paragraph 12 of the Court's order dated April 29, 2024 that with the intention of securing the money stands due as per the Award of the Tribunal, the Division Bench has directed therein, as follows:-

"12. We have also perused the impugned award and since this appeal is not against the impugned award and the challenge to the validity of the impugned award is pending before the learned Single Judge in the aforesaid WPA 11783 of 2019, therefore, considering the entire facts and circumstances of the case we direct the appellants/petitioner to deposit the entire balance amount pursuant to the order of the learned Single Judge dated 29.09.2022, within three weeks from today, with the Registrar General of this Court, which shall be kept by the Registrar General in an interest bearing fixed deposit in a nationalized bank and which shall be subject to result of WPA 11783 of 2019. In the event the appellants/petitioner deposits the entire the amount within the aforesaid stipulated period, then no coercive action shall be taken against the appellants/petitioner for two months or till decision in WPA 11783 of 2019, whichever is earlier."

5. It is submitted by the applicants that the word "earlier" as appearing in the order of the Division Bench dated April 29, 2024 is not in consonance with the spirit of the order and hence must have been inserted only inadvertently. It is submitted that according to the Court's order, the money has been secured with the learned

Registrar General of this Court by the appellants/applicants.

6. Allegedly, taking advantage of the recording in the Court's order as mentioned above, the respondent/opposite party has purportedly come up with an application of contempt against the appellants/applicants and seeks to withdraw the amount so deposited with the learned Registrar General of this Court in terms of the order of the Hon'ble Division Bench, though the writ petition itself being WPA 11783 of 2019 is still pending. It is submitted that the spirit of the order of the Hon'ble Division Bench is to secure the money during pendency of the writ petition and to disburse the same in accordance with the decision and judgment passed in the said writ petition by the Hon'ble Single Judge. Therefore, according to the appellants/applicants, the respondent/opposite party cannot come up with a prayer to withdraw the said money till the time the writ petition is pending. It is further submitted that the respondent/opposite party shall only be

entitled for the amount as deposited with the learned Registrar General of this Court only if he succeeds in the writ petition and be entitled to the award amount and not before that.

7. In such circumstances, the appellants/applicants have prayed for in the application No. CAN 2 of 2025 that necessary modification of the order of the Hon'ble Division Bench dated April 29, 2024 be made thereby indicating that upon depositing the amount of money with the learned Registrar General no coercive action should be taken against the appellants/applicants for two months or till decision in WPA No. 11783 of 2019 **whichever is later, instead of "whichever is earlier"** as recorded in the said order.

8. On behalf of the respondent/opposite party, the above contentions and prayer of the applicants have been vehemently opposed to. According to the learned advocate appearing for the opposite party, the order of the Hon'ble Division Bench

dated April 29, 2024 has spoken for itself and there is hardly any scope for showing any ambiguity therein or any other interpretation thereof. According to him, it is the dilatory and escaping strategies which have prompted the appellants/applicants to come up with such vexatious prayer in the instant application (CAN 2 of 2025).

9. Mr. Rakshit learned advocate for the opposite party has categorically submitted that the opposite party has succeeded before the Tribunal. In spite of that he has been motivatedly deprived from the fruits of the Award. According to the opposite party, it is only mala fide on part of the appellants/applicants to make an endeavor to interpret the order of the Hon'ble Division Bench to their advantage thereby, further adding to the prejudice of the opposite party. It is submitted that the instant application having no merits at all, should be dismissed.

10. We have heard submissions of both the learned counsels appearing for the

respective parties. It is not in dispute that by dint of the order dated April 29, 2024, the Hon'ble Division Bench has dismissed the appeal being MAT 242 of 2024. However, while dismissing the appeal the Court has observed that the appeal was not against the impugned award whereas the challenge to the validity of the impugned award was pending before the Hon'ble Single Judge in writ petition No. WPA 11783 of 2019. Thereafter, the Court has proceeded to direct that within the stipulated period of time, the entire award amount would be deposited with the learned Registrar General of this Court by the appellants therein which should be preserved in an interest bearing fixed depositing account in a nationalized bank and withdrawal of the same shall be subject to result of the writ petition being WPA 11783 of 2019. The Court had also directed that subject to deposit of the entire award amount within the stipulated time period, **no coercive action** should be taken against the appellants/petitioners **for two months or till decision in WPA 11783 of 2019, whichever is earlier.**

11. This Court finds that unless the money is secured during pendency of the writ petition and protection is granted to the appellants/applicants till disposal of the writ petition the purpose of the order of the Court as quoted above, becomes futile. The Court is not oblivious of the settled proposition of law that a purposive and contextual reading of the order would be proper under the law or otherwise the order of the Court would only be rendered as nugatory and without any justification.

12. Admittedly, the writ petition No. WPA 11783 of 2019 is pending before the Hon'ble Single Judge. The validity of the impugned award has been challenged therein. The rights of the parties vis-à-vis the award shall depend on the judgment of the Hon'ble Single Judge to be passed in the said writ petition. Therefore, it could only be justified that the appellants/applicants should be protected from any coercive action till the Hon'ble Single Judge finally decides the rights of

the parties inter se, in the writ petition pending before it.

13. On the discussion as made above, this Court is inclined to modify the order dated April 29, 2024 in MAT 242 of 2024 to the extent that **“no coercive action shall be taken against the appellants/applicants till disposal of the writ petition No. WPA 11783 of 2019”**.

14. It is further directed that **the award amount now kept with the learned Registrar General of this Court and hopefully being invested in an interest bearing fixed deposit account in a nationalized bank as per direction in order dated April 29, 2024, shall continue to be invested as it is.**

15. Rest of the portion of the order dated April 29, 2024 in MAT 242 of 2024 stands as it is.

16. With the direction as above, the application being CAN 2 of 2025 in

connection with MAT 242 of 2024 is disposed of.

17. Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Lanusungkum Jamir, J.)

(Rai Chattopadhyay, J.)