

APDT/30/1997

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

STATE OF WEST BENGAL
VS
VIKASH TRADING

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
And
The Hon'ble JUSTICE OM NARAYAN RAI
Date : August 14, 2025

Appearance:
Mr. Dhruba Ghosh, Sr. Adv.
Ms. Nilanjana Adhya, Adv.
Mr. Paritosh Sinha, Adv.
Mr. Arindam Mandal, Adv.
Ms. Swagata Ghosh, Adv.
...for the appellant/State

Dictated by Arijit Banerjee, J.

The Court: Pursuant to our earlier order dated June 25, 2025, substituted service has been effected on the respondent no.1/plaintiff by paper publication as would appear from the affidavit-of-service filed in court today.

The judgment and decree impugned in this appeal was passed on June 3, 1996. It was an ex-parte decree against the appellant for a sum of Rs.2,93,600/- along with interest thereon at the rate of 18 per cent per annum.

The judgment portion reads thus:

“The Court: My attention has been drawn to the judgement and order of the Hon’ble Appeal Court made in FMAT No.2021 of 1995 Vikash Trading Co. –VS- South Eastern Railway and by the said judgement the Hon’ble Appeal Court inter alia, held:

This undue haste on the part of the Respondents No.6 & 7. Considered against the back ground of other cases of details consignees (vide annexures B and C to the application for stay) who were permitted to take deliver on condonation of much longer delays establishes not only flagret discrimination but existence of oblique motive unholy and malafide proclivity on the part of these respondents 6 & 7 to expose the consider and/or consignee to the loss of the consignment.

The Appeal Court also held that seizures was illegal and malafide and a further declaration was made by the Appeal Court that the respondents No.5 & 7, (who I understand are the defendants No.3 and 4 in this suit) are personally responsible for such malicious seizure. The Defendants No.3 & 4 were acting in the capacity as the officers of the defendant No.2 i.e. the State of West Bengal it was by the wrongful act of the State of West Bengal that the an suffered loss of he the goods and that the acts, which were done by them defendants No.3 and 4 were held to be illegal and malafide by the Hon’ble Apneal Court.”

In spite of service, nobody appears for the respondent.

The appellant is aggrieved by the decree and in our opinion, justifiably so.

There is absolutely no reason or in any event, no adequate reason in support of the decree.

The judgment and decree is set aside. The matter is remanded for fresh adjudication by the learned Single Judge having determination in the matter.

We are told that pursuant to an order dated August 7, 1998, passed by a Learned Judge of this Court in a contempt application being Matter No.275 of 1997, the appellant deposited Rs.4,04,000/- with the Registrar, Original Side, Calcutta High Court.

Since we have allowed this appeal, the appellant will be at liberty to withdraw such amount along with all interest that may have accrued thereon after deduction of any applicable poundage.

The appeal is disposed of.

(ARIJIT BANERJEE, J.)

(OM NARAYAN RAI, J.)

bp.