

(05)
15.12.2014
(k.c. & p.j.)

F.M.A.T. 1315 of 2014
With
CAN 11650 of 2014 (Stay)

Smt. Sharmista Mitra
-Versus-
Sri Probhakar Ghosh

Mr. Subrata Kumar Roy Karmakar
... for the Appellant

Mr. Arindam Mukherjee
Mr. Avirup Chatterjee
... for the respondent

The respondent in the appeal filed an application under section 9 of the Arbitration and Conciliation Act for partnership action. According to him, he invested sums in the partnership business that is still to be repaid and the appellant is carrying on business to his exclusion. On such allegation the respondent could manage to obtain an ex parte ad interim order of injunction restraining the appellant from disturbing him. The learned Judge of the Court below directed the opposite party not to disturb the petitioner to carry on the partnership business.

Being aggrieved, the appellant has now come up in appeal.

The learned counsel for the appellant would contend, although the deed of partnership was executed, it was never acted upon. The respondent invested a sum of Rs. 7 lakh that the appellant repaid.

Per contra, Mr. Mukherjee, learned counsel appearing for the respondent, would contend, he had invested a sum of Rs. 64 lakh and was not in a position to recover the said sum from the partnership business, as he is totally excluded from carrying out the day-to-day affairs.

This question would be decided by the learned Judge of the Court below.

The learned counsel for the appellant would pray for time to file affidavit-in-opposition before the learned Judge.

We thus expedite the hearing of the application made under section 9 and direct the appellant to file affidavit-in-opposition by December 27, 2014 and affidavit-in-reply and/or rejoinder, if any, by the respondent by January 13, 2015.

We request the learned Judge to give some priority in disposing of the application after completion of affidavits.

The appeal and the connected application are thus disposed of.

Certified copy of this order, if applied for, be supplied to the parties as early as possible.

(Banerjee, J.)

(Ashis Kumar Chakraborty, J.)