

Creative Property Developers Pvt. Ltd. Vs. Mahima Management Services Pvt. Ltd. and anr.

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Court : Kolkata

Decided On : May-07-2014

Judge : Banerjee

Appellant : Creative Property Developers Pvt. Ltd.

Respondent : Mahima Management Services Pvt. Ltd. and anr.

Judgement :

ORDER

SHEET GA13762014 APOT1862014 CS242014 IN THE HIGH COURT AT CALCUTTA Civil Appellate Jurisdiction ORIGINAL SIDE CREATIVE PROPERTY DEVELOPERS PVT.LTD.Versus MAHIMA MANAGEMENT SERVICES PVT.LTD.& ANR.

BEFORE: The Hon'ble JUSTICE ASHIM KUMAR BANERJEE The Hon'ble JUSTICE ARIJIT BANERJEE Date : 7th May, 2014.

Mr.Pratap Chatterjee, Sr.Advocate Mr.Reetobroto Mitra, Advocate Ms.Debosmita Ghosh, Advocate for the appellant.

Mr.Rupak Ghosh, Advocate Mr.Susanta Kumar Dutta, Advocate Mr.S.Banerjee Advocate for the respondent no.1.

The Court : We have heard the parties at length.

Mr.Reetobroto Mitra, learned Counsel appearing for the appellant being led by Mr.Pratap Chatterjee, learned senior Counsel would strenuously contend, he is not obliged to serve any copy of the memorandum of appeal or the stay application on Mr.Rupak Ghosh appearing for the respondent/plaintiff in the appeal.

He would refer to Chapter 38 Rule 65 where this Court is competent to direct any bank to certify the statement of account and send it to this Court for consideration of any lis.

Under Rule 65 any litigant can make such application ex parte with the discretion of the Court to serve the bank in case it would feel deem fit and proper.

Rule 65 had no relation with the adversary.

The subject dispute would relate to money lent and advanced as claimed by Mr.Rupak Ghosh appearing for the respondent/plaintiff.

He would contend, he had a claim against the appellant.

The appellant applied before His Lordship under Rule 65 ex parte to have the statement of account of the plaintiff certified and brought to the Court.

The learned Judge disposed of the application by the judgment and order impugned dated March 13, 2014 wherein His Lordship asked the defendant to write a letter to the Advocate-on-Record of the plaintiff to ask for documents and they would reply to the same.

Being aggrieved, the defendant/appellant has approached us by filing the instant appeal.

We find from the judgment and order impugned, both parties were duly represented.

Rule 65 does not impose any fetter on the appellant to serve the respondent/plaintiff rather, for fair-play and ends of justice, the respondent should

be served.

In couRs.of hearing we have directed Mr.Mitra to serve a copy.

Accordingly, Mr.Rupak Ghosh has been served in Court.

The appellant applied for certified copy of the accounts belonging to the plaintiff.

Whether they would be entitled to see the accounts of the respondent or not would be decided by the learned Judge.

We direct the Allahabad Bank to certify the bank statement standing in the name of Cindrella Management Services Private Limited for the year 2011-12 and send it in a sealed cover to the Registrar, O.S.The Registrar would place the same before the learned single Judge who would decide as to the fate of the sealed cover.

The appeal is disposed of, after treating the same as on days list, without any order as to cost.

Consequently, the application is also disposed of.

(ASHIM KUMAR BANERJEE, J.) (ARIJIT BANERJEE, J.) sd/

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