

Eiilm Foundation and ors. Vs. Malvika Foundation and ors.

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Court : Kolkata

Decided On : Aug-22-2014

Judge : Bench

Appellant : Eiilm Foundation and ors.

Respondent : Malvika Foundation and ors.

Judgement :

APOT No.432 of 2014 GA No.2562 of 2014 CS No.251 of 2013 IN THE HIGH COURT AT CALCUTTA Civil Appellate Jurisdiction ORIGINAL SIDE EIILM FOUNDATION & ORS.Versus MALVIKA FOUNDATION & ORS.BEFORE: The Hon'ble CHIEF JUSTICE MRS.MANJULA CHELLUR The Hon'ble JUSTICE ASHIM KUMAR BANERJEE Date : 22nd August, 2014.

For Appellants : Mr.Mr.Mr.Ms.Ms.Tilak Bose, Sr.Advocate Debjyoti Dutta, Advocate Ganesh P.

Shaw, Vijaya Bhatia and Suruchi Agarwal, Advocates For Respondent No.1 : Mr.Pratap Chatterjee, Sr.Advocate Mr.Mainak Bose, Advocate Mr.Arindam Mukherjee, Advocate For Respondent No.6 : Mr.R.L.Mitra, Advocate For Respondent No.7 : Mr.Chayan Gupta, Mr.N.Chakraborty, Advocates For Respondent No.9 : Mr.Nirmalya Dasgupta, Ms.Priyanka Dhar, Advocates The Court : This appeal is directed against the impugned order dated 30.7.2014, which reads as under :- Upon hearing learned Counsel for the parties when the matter

was mentioned today by Mr.S.N.Mitra, learned senior Advocate, I direct the supervising committee, for the time being not to make any disbursement under the heading Special Legal Expenses mentioned in their minutes dated 28th July, 2014, provided a formal application is made by Mr.Mitras clients within a week from date.

X X X X x x x . This order dated 30.7.2014 apparently was on oral application by virtue of a notice dated 28.7.2014, which reads as under :This is to give you notice that my clients Counsel will mentioned the above matter before the Honble Justice I.P.Mukerji on Wednesday the 30th day of July 2014 at the fiRs.sitting of the Court and shall apply for appropriate orders and/or directions in the matter when you are requested to please appear. The entire controverRs.revolveRs.around payment of `special legal expenses.

No doubt, as on the date of the impugned order GA No.2176 of 2013 was pending consideration as well as GA No.52 of 2014 apart from other two interlocutory applications.

Mr.Tilak Bose, learned Senior Advocate arguing for the appellants, contends that the impugned order is not only devoid of merits as it does not mention any reasons for giving such direction but it is not supported by any application.

There is also a statement made in the petition that on 30.7.2014 they did not have opportunity to understand what would be the oral submission before the Court and why they had to defend themselves.

In that context, learned Counsel for the appellants submits that the impugned order dated 30.7.2014 is erroneous and deserves to be set aside.

As against this, Mr.Pratap Chatterjee, learned Senior Advocate arguing for the respondent no.1, contends that there was no need for filing any application as they had already mentioned in the notice dated 28.7.2014, GA No.52 of 2014 and GA No.2176 of 2014 and the oral application for the impugned order was nothing but part of the pending application.

During submits impugned that the couRs.there order as was both of no submissions, necessity the sides of were Mr.any Chatterjee reasoning represented further in and the were present.

Further, it was not an ex parte direction.

On hearing both the Senior Counsel and going through the relevant papers and records, we are of the opinion that the order dated 30.7.2014 requires to be set aside as there was no specific prayer in any applications pending that Special Legal Expenses should not be disbursed.

In other words, it was considered on the oral application.

The parties are put back to the position as existed on 30.7.2014.

Let all the applications pending as on 30.7.2014 be heard and the same be decided after giving opportunity to both the sides.

The application GA No.2479 of 2014 subsequently filed in pursuance of the order dated 30.7.2014 has become infructuous and is disposed of treating it as on days list.

(MANJULA CHELLUR, CJ.) (ASHIM KUMAR BANERJEE, J.) SN.

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