

Joydev Bag and ors. Vs. Dr. Sudhir Kumar Ghosh and ors.

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Court : Kolkata

Decided On : Mar-25-2011

Judge : Bhattacharya; Sambuddha Chakrabarti, J.

Appeal No. : APOT No. 124 of 2011; TA No. 25 of 2011; CS No. 25 of 2011.

Appellant : Joydev Bag and ors.

Respondent : Dr. Sudhir Kumar Ghosh and ors.

Advocate for Def. : Mr. Pratap Chatterjee; Mr. Joy Saha; Mr. Gourab; Kr. Basu, Advs.

Advocate for Pet/Ap. : Mr. K.J. Tewari; Mr. P. Ghosh, Advs.

Judgement :

1. Instead of disposal of the application for stay, we propose to hear out the appeal itself by treating it as on days list. This appeal is at the instance of some of the defendants in a suit for declaration and injunction and is directed against an order dated 17th March, 2011, passed by a learned Single Judge of this Court, by which His Lordship directed the Receiver to take immediate possession of all the medicines and goods at the medicine shop with a further direction to shut down the nursing home within a specified period after being satisfied that there is no operation scheduled immediately.

2. It appears that this order was passed on 17th March, 2011 when the appellants before us did not enter appearance. As this order is an interim order appointing

Receiver over the business of the plaintiffs themselves and the defendants have not yet entered appearance and the main application for appointment of Receiver is yet to be heard on merit, we are not inclined to entertain this appeal at this stage.

3. The appellants before us will be free to file written objection to the application for appointment of Receiver and will also be free to pray for variation of interim order if they so desire. Having regard to the nature of allegation and taking into consideration the fact that the plaintiffs are the owner of the nursing home and are required to comply with various statutory formalities, we do not find any illegality or impropriety in the order impugned having regard to the nature of the right claimed by the defendants.

4. We thus dismiss this appeal. In view of dismissal of this appeal, the connected application has become in fructuous and the same is disposed of accordingly. Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

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