

ORDER SHEET

GA NO.820 OF
2020 WITH
CS NO.2 OF
2017

IN THE HIGH COURT AT
CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

LINDSAY INTERNATIONAL PVT. LTD. &
ORS. VS.
LAXMI NIWAS MITTAL & ORS.

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date: 12th August, 2020.

[Through Video Conference]

Appearance :

S. N. Mookherjee, Sr.
Adv. Mr. Rudraman
Bhattacharya, Adv. Mr.
Shaunak Mitra, Adv.
Mr. S. R. Kakrania,
Adv. Mr. Tanuj
Kakraniam, Adv. Mr.
SanjeebSeni, Adv.
Mr. Aviroop Mitra, Adv.
...for plaintiffs.

Mr. Siddhartha Mitta, Sr.
Adv. Ms. Pallavi
Shroff, Adv. Mr.
siddhartha Datta, Adv.
Mr. Sakabda Roy, Adv.
...for defendants.

Mr. Domingo Gomes,
Adv. Ms. Surabhi
Binani, Adv...appear.

The Court: This matter has been fixed and marked 'To Be Mentioned', today in view of a publication/posting in a website called 'LinkedIn' in the account of one S.Kakrania & Co. The matter was brought to my notice by a family member, who has received it from a classmate from out of town, day before yesterday.

The publication included a screenshot of the hearing of this Court, which is equivalent to a photograph of actual court proceedings on the day when interim order was passed by this Court in the matter while calling for affidavits. The above screenshot was preceded by the following writing :-

"We are #happy to#share that we managed to obtain an#Ante-#Arbitration#Injunction (ICC Arbitration)in a matter before the Calcutta High Court".

After having noticed the publication, the screenshot was circulated by me to respective counsel for the parties, Mr. S. N. Mookherjee and Mr. Siddhartha Mitra, who have communicated the same to their Advocates on Record. Hence the hearing today.

In course of the hearing today, this Court indicated to the parties the following impropriety evident from the aforesaid screenshot/publication; -

[a] a screenshot of Court Proceeding has been taken which is equivalent to a photograph of a Court Proceeding, without the leave of this Court.

[b] The screenshot was published in a personal web page of a website called 'Linked In' about two months ago without the leave or knowledge of this Court.

[b] an insinuation may be evident from the aforesaid writing on the page in question seen with the screenshot.

Mr. S. Kakrania, who is personally present in the hearing has expressed serious regret and has tendered an unconditional apology to this Court for having made such publication. He further submits that no insinuation was at all intended and that it was made bona fide and without any intention whatsoever to affect the dignity of the High Court.

Mr. S. N.Mookherjee representing the plaintiffs in the matter has expressed shock at the publication and has submitted that the same is extremely unfortunate. He has, however, said that the publication is bona fide and without any intention whatsoever to affect the dignity of this Court.

After hearing the parties, this Court expressed a desire to release the matter from this Court's board.

Mr. Siddhartha Mitra, learned Senior Advocate, representing the original defendants in the suit submitted that the language used in the website could have been happier and the expression 'managed' should not be misconstrued in any other manner by this Court. He submitted that the expression 'managed' must be understood to mean 'succeeded' i.e. succeeded to have obtained an order in the nature of an anti-suit injunction / anti arbitration injunction which is otherwise not normally granted.

Mr. Mitra submits that his clients, advocates on record, instructing advocates and leader are of the further unequivocal view that substantial resources have been expended for conduct of this matter before this Court and serious loss and prejudice would be caused to all parties and particularly to his own clients if the matter was released by this Bench.

Mr. Mitra further submits that his clients' advocates on record and the leader in the matter have expressed full confidence in this Court and have also urged this Court to continue hearing and pronounce judgement in the matter. Upon further inquiry from this Court Mr. Mitra has reiterated the aforesaid instructions and views of his clients, advocates on record, instructing advocates and leader.

Mr. S. N. Mookherjee has submitted that his advocate on record should and must file an apology by way of an affidavit before this Court and has adopted the submission of Mr. Siddhartha Mitra. Mr. Mookherjee also reiterates that substantial time and expenses have been incurred by their clients in conduct of this matter which is in the nature of a high stakes litigation.

Mr. Mookherjee and Mr. Mitra in support of their argument have also placed an order passed by Soumen Sen, J. on 30th July, 2020 where their submissions have been recorded that, the matter was substantially heard before this Bench. Mr. Mitra has also submitted that his side would only take another thirty odd minutes to conclude their submissions after which Mr. Mookherjee would submit his reply.

This Court expresses its deep displeasure at the publication made by Mr. S. Kakrania, Advocate and is of the view that the same has been done in bad taste. While this Court was of the view that the matter ought not to be further heard by this Court, considering the earnest request made by Mr. Siddhartha Mitra, learned Senior Advocate for the defendants and Mr. S. N. Mookherjee, learned Senior Advocate for the plaintiffs, this Court proceeds to take up the matter further. Substantial time has also been spent by this Court in hearing the parties in the matter.

The parties may communicate a convenient date to the registry in advance as to when the hearing of this matter should be fixed.

The department is directed to number a suo motu contempt proceeding against Mr.

S. Kakrania, Advocate who shall answer the Rule that is issued herewith.

Formal drawing up of Rule and service of the same is dispensed with since Mr. Kakrania is personally present in the hearing today. This order shall be treated as a Rule by the department.

Mr. S. Kakrania, Advocate shall file an affidavit in answer to the Rule before this Court explaining his conduct as indicated hereinabove.

The contempt notice shall be heard first on the next day when the matter is taken

up.

[RAJASEKHAR MANTHA, J]

pkd.GH.