

15.12.2022

Sl.No.

Ct.No.3

Amalranjan

Unlisted

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

SAT 137 of 2022

Dr. Aroon Kumar Chatterjee
VS
Partha Sarathi Banerjee & Anr.
With
CAN/1/2022
With
CAN/2/2022

Mr. Suddhasatva Banerjee
Mr. Shouveek Ray

...for the appellant

Re: CAN//2022 & CAN/2/2022

This appeal and the connected applications
are treated as on the day's list.

At the sitting of the court at 2 p.m. today
Mr. Suddhasatva Banerjee, learned advocate for
the appellant/petitioner mentions the above
appeal and applications citing grave urgency.

He submits that the respondents have
commenced execution proceedings to execute the
impugned judgment and decree. What is serious
according to Mr. Banerjee is that this execution
is being carried out with police help without any
notice to his client.

Furthermore, while trying to take
possession of the subject premises, medical
equipments, which are affixed to it and which

belong to the appellant are being uprooted, damaged and removed from the premises.

It is true that the intended second appeal is much delayed and accompanied by a Section 5 application.

The appellant is to overcome the hurdle of obtaining condonation of delay and admission of the appeal.

Be that as it may, prima facie, the movables situated in the premises, i.e., medical equipments, gadgets accessories etc. belong to the appellant and they should be allowed to remove them and keep them in their custody. At any rate, the respondents cannot cause any damage to them while taking possession of the said premises.

On the above, prima facie, case, we direct as follows:

List this appeal and the connected applications on 19th December, 2022 at the top.

The Officer-in-Charge of Tollygunge police station is directed to ensure that the movables comprising of medical equipments, gadgets accessories etc. situated in the subject premises are not touched or handled in any manner by the respondents or the bailiff or the police until further orders.

We also pass an order of injunction restraining the respondents from in any way handling or removing the said equipments by themselves or through an agent.

Any other execution process shall abide by the result of this appeal and the applications.

The parties and the Officer-in-Charge of the Tollygunge police station shall act on a communication of this order by the advocate on record for the appellant till this court is able to upload it in its official *website* or a certified server copy issued by the court.

(Biswaroop Chowdhury,J.) (I. P. Mukerji,J.)