

05.11.2024
rc/ct.no.34
Item No.142

CRR No. 4423 of 2024

**In the matter of : Pawan Kumar Sharma & Ors.
.....Petitioners**

Mr. Sandipan Ganguly
Mr. Amar Dudhwewala
Mr. Dipanjan Dutt
Mr. Karan Dudhwewala
Mr. Rohan Bhalotia ...for the Petitioners

Mr. Ayan Bhattacharjee
Ms. Minal Palana
Ms. Rituparna Chatterjee
Ms. Khushboo Chowdhury ...for the O.P.

Since the opposite party is represented, the petitioners are directed to serve copy of the application along with annexure thereto upon the learned advocate for the opposite party in course of tomorrow.

The petitioners have assailed the order passed by the learned Chief Judge, City Sessions Court, Calcutta on September 13, 2024 in Criminal Revision No. 168 of 2024 dismissing the revisional application and affirming the order passed by the learned Metropolitan Magistrate, 15th Court, Calcutta, presently redesignated as the learned Judicial Magistrate, 15th Court, Calcutta on April 17, 2023 in C.S.No. 13187 of 2021. By the order dated April 17, 2023, the learned Magistrate allowed the application filed by the complainant/opposite party under Section 143A(2) of the Negotiable Instrument Act, 1881 (hereinafter referred to as "the Act of 1881") and directed the petitioners to pay

interim compensation to the tune of Rs.1,68,75,000/- within 60 days from the date of the order, which is approximately 5% of the cheque amount.

Learned advocate for the petitioners submits that in view of the provisions laid down under Section 143A(2) of the Act of 1881, interim compensation is required to be paid only by the drawer of the cheque and none else. Learned advocate for the petitioners has placed reliance on the authority in **Shri Gurudatta Sugars Marketing P. Ltd. Vs. Prithviraj Sayajirao Deshmukh and Others** reported in **2024 SCC OnLine SC 1800** in support of his contention.

Per contra, learned counsel for the opposite party submits that the petitioners, by an application filed before the learned Trial Court, undertook to pay the amount of interim compensation in installments.

It appears that Misc. Execution No. 105 of 2023 has been filed for execution of the order of the learned Magistrate.

Learned counsel for the opposite party seeks to use affidavit in opposition.

Affidavit-in-opposition be filed within two weeks from date. Affidavit-in-reply, if any, be filed within two weeks thereafter.

The matter needs to be heard on merits.

Let this matter appear under the heading “Contested Application” on January 10, 2025.

The order passed by the learned Judicial Magistrate, 15th Court, Calcutta on April 17, 2023 in C.S.No. 13187 of 2021 and

Misc. Execution Case No. 105 of 2023 arising out of the said order be stayed till January 31, 2025 or until further orders whichever is earlier.

This order shall not preclude the learned Magistrate from proceeding with the trial.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh,J)