

OD – 14

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Jurisdiction
ORIGINAL SIDE

IA NO. GA/1/2023
In EC/211/2022

FAIRDEAL SUPPLIES LIMITED
Vs
BIJAY KUMAR KANDOI AND ORS

BEFORE:

The Hon'ble JUSTICE BIVAS PATTANAYAK

Date : 25th June, 2024.

Appearance:
Mr. Kaushik Banerjee, Adv.
Ms. Rashmita Sen, Adv.
... for the decree holder.

Mr. Suman Dutt, Adv.
Mr. Rajarshi Dutta, Adv.
... for the judgment debtors.

The Court :- Mr. Kaushik Banerjee, learned Advocate for the decree-holder submits that the decree holder has filed an appeal before the National Company Law Appellate Tribunal being Company Appeal(AT) (Insolvency) No. 648 of 2024 which is scheduled for hearing on 10th July, 2024. As per Section 14 of the Insolvency and Bankruptcy Code, 2016 there is moratorium in institution of suits or continuation of pending suits or proceedings against the corporate debtor. The decree-holder herein is the corporate debtor in the appeal before NCLAT. He seeks for fixing the matter after 10th July, 2024.

Mr. Suman Dutt, learned Advocate for the petitioner in GA/1/2023 submits that the decree ought not to have been passed in the suit since the Court lacked jurisdiction to pass such decree. The petitioner/judgment

debtor by the present application has challenged the execution proceeding on the ground that there is no existence of a decree and hence the execution filed is totally mis-conceived. He further indicates that the order passed by the NCLAT has got no connection with the right of the petitioner vouched through an application under Section 47 of the Civil Procedure Code. He opposes the prayer of the decree holder as above.

Heard learned Advocates for the respect parties.

It is found from the order dated 28th May, 2024 passed by NCLAT, New Delhi in Company Appeal(AT) (Insolvency) No. 648 of 2024 that the appeal is listed on 10th July, 2024.

In view of the aforesaid, list this matter on 12th July, 2024.

(BIVAS PATTANAYAK, J.)