

ORDER SHEET

AP 380 of 2017

With

AP 993 of 2017

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

LAXMI PAT SURANA
VS

PANTALOON RETAIL INDIA LTD & ORS

BEFORE:

The Hon'ble JUSTICE ARINDAM SINHA

Date : December 1, 2020.

Appearance:

Mr. Sakta Sen, Adv.

... for petitioner

Mr. Arindam Guha, Adv.

Mr. Debnath Ghosh, Adv.

Mr. Ranjan Deb, Sr. Adv

Ms. Pooja Chakrabarti, Adv..

Mr. Rishad Medora, Adv.

Mr. Sreejit Ghosh, Adv.

... for respondent.

The Court : This arbitration petition, specially assigned to this Bench, has been called on for hearing. Mr. Sen, learned advocate appears on behalf of petitioner and submits, this is fit case for directing interim measure of furnishing security as a clear case that would cause issuance of an order under order 38 rule 5 in Code of Civil Procedure, 1908 as has been made out by his client. Respondents, who have separated themselves to be respondent

nos. 1 and 4 contending that respondent nos. 2 and 3 will answer the claim, are in the process of dealing with their business and properties on 'slump sale' basis to Reliance Retail. Mr. Sengupta, learned advocate appears on behalf of respondent nos. 1 and 4 to submit, his leader is unwell. There be adjournment of two weeks.

Mr. Deb, learned senior advocate appears on behalf of respondent nos. 2 and 3. He submits, claim of petitioner is essentially for mesne profits or damages under sub-section (12) section 2 in the Code. There cannot be attachment before judgment to secure such a claim. In any event, said claim has been set up by the supplementary affidavit, which is beyond the scope of prayers in the notice of motion. As such all contentions of entitlement to relief of security are not maintainable. Mr. Sen, submits, contentions of answering respondent nos. 2 and 3 have been heard and recorded in order sheet, from which a prima facie view emerges. He would make submissions in that regard.

Paucity of time intervenes. List as the first specially assigned matter on 7th December, 2020.

(ARINDAM SINHA, J.)