

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

IA NO. GA/3/2024
WITH
CS/117/2009
IN APOT/441/2016

UTPAL ENTERPRISES PVT. LTD.
Versus
SHREE BAJRANG LAND AND TRADING CO. AND ORS.

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 18TH April, 2024.

Mr. Jishnu Choudhury, Adv.
Mr. Varun Kothari, Adv.
Mr. A. Agarwalla, Adv.
Ms. P. Garain, Adv.
Ms. V. Khaitan, Adv.
...for the Appellant/plaintiff.

Mr. Soumabho Ghose, Adv.
Mr. Saptanshu Mandal, Adv.
Ms. Tiana Bhattacharya, Adv.
... for the respondents/defendants.

The Court :- This application is filed for clarification of order dated 6th August, 2019. Mr. Jishnu Choudhury, learned Counsel representing the applicant has submitted that the suit cannot be marked as a commercial suit as the dispute involves is not a commercial dispute within the meaning of Section 2(c)(vii) of the Commercial Courts Act, 2015. It is submitted that an application has been filed before the learned Single

Judge for treating the suit as a non-commercial suit. We have read our order carefully. It is true that on the date when we passed this order there was no argument advanced with regard to the character of the suit. Moreover there was no determination on the issue as to whether the suit or the cross suit shall be marked as a 'Commercial Suit' under the Commercial Courts Act, 2015.

In view of the aforesaid we modify our order to the extent that we have not decided the said issue. The learned Single Judge before whom the application is pending for treating the suit as a non-commercial suit within the meaning of the Commercial Courts Act, 2015 shall decide the matter uninfluenced by any observation made in the order dated 6th August, 2019.

The order dated 6th August, 2019 stands modified to the aforesaid extent.

The application stands disposed of accordingly.

(SOUMEN SEN, J.)

(RAVI KRISHAN KAPUR, J.)