

I. A No. GA 3 of 2021
with
APD No. 505 of 2015
CS No. 179 of 2008
IN THE HIGH COURT AT CALCUTTA
In appeal from its
TESTAMENTARY AND INTESTATE JURISDICTION
CIVIL APPELLATE JURISDICTION

Vulkan Technologies Pvt. Ltd.

Versus

ESBI Hi-Flex Pvt. Ltd. & Ors.

Before:

The Hon'ble Justice I. P. MUKERJI

And

The Hon'ble Justice MD. NIZAMUDDIN

Date: 11th March 2021

Appearance:

Mr. Rupak Ghosh, Advocate

Mr. Pranit Bag, Advocate

Mr. Tapas Saha, Advocate

Mr. Subhamay Dewanji, Advocate

Mr. Diprav Deb, Advocate

for the applicant

The Court: An affidavit of service is on record.

Mr. Ghosh submits that this application was sought to be served on the respondents at the address recorded in the proceedings. The postal remark received was to the effect that the addressee had “moved” from the premises. The advocate-on-record for the respondents is also out of reach, as submitted.

By its order dated 10th May 2016 the Supreme Court had directed the appellant (the respondent before that Court) as follows:

““In view of that, as suggested before us by the learned Senior counsel appearing for the respondent – 50% of the decretal amount shall be furnished to the Registrar, Original Side, Calcutta High Court by way of a Bank Guarantee and remaining 50% of the amount shall be given as a security to the satisfaction of the Registrar, Original Side, Calcutta High Court, within a period of four weeks from today, to the credit of the appeal.”

Rest of the order dated 6-5-2016 shall remain unchanged.”

By our judgment and order dated 5th July 2019 we set aside the impugned decree dated 30th September 2015, allowed the appeal and remanded the suit to the trial court.

The above security was provided by the appellant as a condition for preferment of the appeal. Now that the appeal has been allowed and the suit remanded to the first court, the appellant is entitled to return of the security.

In those circumstances, we allow this application in terms of prayer (a) of the petition.

Since the respondents have not appeared before us, we direct that the Registrar, Original Side shall issue a notice to them about release of the bank guarantee and shall release the same after a period of two weeks from the date of issuance of the notice.

(I. P. MUKERJI, J.)

(MD. NIZAMUDDIN, J.)