

30<sup>th</sup> September,  
2020(S/L)  
(SKB)

**C.O. 1233 of 2020**  
**With**  
**CAN 1 of 2020**  
(Via Video Conference)

Clearmedi Health Care Private Limited  
Versus  
Chikitsaborti Uddyog

Mr. Somnath Roy Chowdhury  
... for the petitioner.

Mr. Pijush Biswas  
... for the opposite party.

Affidavit of service filed in Court today be kept with the records.

Learned Counsel for the petitioner submits that the impugned order is patently without jurisdiction since the appeal bearing Miscellaneous Appeal No.4 of 2020, filed by the judgment-debtor/opposite party herein, was not maintainable against an order passed under Section 47 of the Code of Civil Procedure.

Learned Counsel for the opposite party, in his usual fairness, concedes such position of law and further apprises this court of the pendency an application for withdrawal of the appeal, with leave to file an appropriate challenge, at the behest of the opposite party before the learned Trial Court.

In such view of the matter, C.O. 1233 of 2020 is disposed of by setting aside the impugned order, bearing Order No.2 dated February 19, 2020 passed by the Additional District Judge, 1<sup>st</sup> Court, Uluberia, Howrah. It

is made clear that the merits of the matter have not been gone into and it will be open to the appropriate court to decide the same in accordance with law.

There will be no order as to costs.

Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

**(Sabyasachi Bhattacharyya, J.)**