

OD 7

ORDER SHEET

CS 277 of 2019
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

M/S. G R POLYFIRM PVT. LTD. AND ORS.
VERSUS
ALLAHABAD BANK

BEFORE:
The Hon'ble JUSTICE DEBANGSU BASAK
Date: 6th January, 2021.

(Via Video Conference)

Mr. M.S. Tiwari, Adv.
...appears

The Court: The subject matter of the suit involves a commercial dispute within the meaning of the provisions of the Commercial Courts Act, 2015. Since the Court does not have jurisdiction, CS 277 of 2019 is dismissed.

Learned advocate appearing for the plaintiffs seeks return of the Court fees.

In my opinion, return of the Court fees is not possible. The plaintiffs invited the Court to consider the merits of the case at least in order to find out whether the subject matter of the plaint falls within the definition of commercial dispute within the meaning of the Act of 2015 or not. Once the plaintiffs invite the Court to adjudicate on the merits of any issue in the suit, the plaintiffs are required to pay the Court fees for the same. A Court can pass a valid decree or order in a suit only when the plaintiffs paid appropriate Court fees in the suit. The plaintiffs having invited the Court to pass an order in the suit cannot invite the Court to refund the Court fees. It is not a case where the plaintiffs paid excess Court fees. The Court fees therefore cannot be refunded to the plaintiffs.

There are few more aspects so far as the Court fees are concerned. It is the plaintiffs who as the dominant litigant chose the forum. The plaintiffs chose a wrong

forum. It is therefore the fault of the plaintiffs and not of anyone else. The plaintiffs cannot benefit from its own wrong and seek refund of Court fees.

There is a third aspect so far as the Court fees are concerned. There is a pandemic which is affecting the country. Revenue is required. Allowing such litigants as the plaintiffs to walk away with the Revenue for the asking should not be encouraged.

(DEBANGSU BASAK, J.)

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