

19.05.2022
SL No.27
Court No.8
(gc)

**FMAT 127 of 2022
With
CAN 1 of 2022**

**Eva Exotica Pvt. Ltd.
Vs.
Amit Kumar Ghidia & Ors.**

Mr. Abhrajit Mitra, Sr. Adv.,
Ms. Rajashree Kajaria,
Mr. Sarvapriya Mukherjee,
...for the Appellant.

Mr. D.N. Sharma,
Mr. Nirmalya Dasgupta,
Mr. D. Chakraborty,
... for the Respondents.

In view of the fact that the subject matter of the suit cannot be decided by NCLT and Section 430 of the Companies Act would not be applicable to the present dispute, the impugned order is set aside.

Mr. D.N. Sharma, learned Counsel representing the respondents has ordinarily submitted that the suit may not be maintainable before Civil Court in view of the commercial nature of the dispute and the suit should have been filed before the commercial division which, however, has not been decided by the learned Trial Court in view of its finding based on Section 430 of the Companies Act.

We feel that the application for rejection/return of the plaint now needs to be decided by the Trial Court by reviving the pending application.

Since it raises issue with regard to the jurisdiction of the Court and as it goes to very root of the jurisdiction of

the Civil Court, we direct the learned Trial Court to decide the jurisdictional issue as expeditiously as possible preferably within a period of four weeks from the date of communication of this order by either of the parties.

With the aforesaid observation, the appeal being FMAT 127 of 2022 and the application being CAN 1 of 2022 stand disposed of.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)