

01 19.07.2022
S.L

Ct-08

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FMAT 287 of 2022

with

I.A No. CAN 1 of 2022

Megacorp Bulkera Pvt. Ltd.

Vs.

Alcatraz International Implex (P) Ltd.

Mr. Swatarup Banerjee
Mr. Avishek Guha
Sk. Sariful Haque
Mr. Akansha Chopra
... For the Appellant

Learned counsel appearing for the appellant submits that deficit court fees have been filed in the department being filing no. A-13285, dated 19th July, 2022. Accordingly, the defect is cured.

This appeal is arising out of an order passed by the learned Judge, Commercial Court at Alipore in Misc. Case (Arb) 46 of 2022 on 15th July, 2022 by which the learned Judge has refused to pass any ad-interim order in favour of the petitioner.

Considering the hardship and inconvenience that would have resulted from passing any ad-interim ex parte order in favour of the petitioner, the discretion exercised by the learned trial Judge in refusing to pass ex parte ad interim order in favour of the appellant cannot be said to be unreasonable or perverse. In any event, the learned Judge has fixed the matter on 25th July, 2022 for service return, appearance and filing of affidavit-in-opposition.

However, considering the submission made on behalf of the appellant that the vessel might leave the port in course of this week, we request the learned Judge to take up this matter on 22nd July, 2022, by preponing the date fixed, subject

to service of notice along with the copy of the application under Section 9 of the Arbitration and Conciliation Act, 1996 by 20th July, 2022 upon the respondent.

We request the learned Judge to consider the prayer for ad interim order without being influenced by the observation by which the ex parte ad interim order was refused and also the observation made by us in this order.

In view of the above, The appeal and CAN 1 of 2022 stand dismissed without any order as to costs.

(Siddhartha Roy Chowdhury,J.)

(Soumen Sen, J.)

