

26.07.2022
SL No.17
Court No.8
(gc)

**FMA 4084 of 2014
CAN 1 of 2014
(Old No: CAN 10935 of 2014)**

**Swapan Kumar Ghosh & Anr.
Vs.
M/s. Gaya Prasad Hiralal & Anr.**

The appellants are not represented, nor any accommodation is prayed for on their behalf.

The appeal is arising out of an order dated 10th September, 2014 in connection with an application filed under Section 9 of the Arbitration and Conciliation Act. The learned Trial Judge, in our view, was justified in refusing to exercise its jurisdiction as the proper remedy would be an application under Order 23 Rule 3 of the Code of Civil Procedure or Section 37 of the Arbitration and Conciliation Act depending upon the nature of the dispute.

With the aforesaid observation, the appeal, accordingly, stands dismissed.

In view of dismissal of the appeal, the application also stands dismissed.

However, there shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)