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ORDER SHEET

EC/109/2020
IA No. GA/2/2022

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

MOUNTVIEW TRACOM LLP
Versus
ALP METAL LIMITED

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 28th January, 2022.

[Via video conference]

Appearance :

Mr. Jishnu Chowdhury, Adv.
Ms. Radhika Singh, Adv.
Mr. Chayan Gupta, Adv.

Mr. Ahin Chaudhuri, Sr. Adv.
Mr. Gopal Pahari, Adv.
Ms. Mandeep Kaur, Adv.

The Court: This is an application for execution of an Award dated 3rd December, 2019.

The application was filed on 2nd March, 2020. Diverse orders have been passed from time to time. Pursuant to orders of the Court, the judgment-debtor has filed an Affidavit-of-Assets. The bank has also filed an Affidavit. A preliminary point is raised by the judgment-debtor that the present dispute is a

“commercial dispute” within the meaning of Section 2(1)(c) of the Commercial Courts Act 2015.

Mr. Jishnu Chowdhury, appearing on behalf of the decree-holder, submits that since the award grants him approximately Rs.5 crore, there is no question in getting embroiled in these technical issues.

In view of the submissions made on behalf of the parties, liberty is granted to the decree-holder to withdraw this application and file a fresh execution case before the Appropriate Division of this Hon’ble Court.

It is clarified that the interim order passed in EC 109/2020 will continue to bind the parties till a fresh Execution Application is filed before the Commercial Division of this Hon’ble Court. This order will continue for a period of 4 (four) weeks from date.

By consent of the parties, the affidavits including the Affidavit-of-Assets filed by the judgment-debtor may also be used by the parties in the fresh proceedings proposed to be filed.

Liberty is also granted to the decree-holder to take back the original certified copy of the award filed in this Execution Application after replacing the same with a photocopy thereof.

By consent of the parties, GA/2/2022 is also treated on the day’s list.

Since liberty is granted to the decree-holder to withdraw this proceeding and file afresh before the appropriate Division of this Court, no purpose would be served in keeping GA/2/2022 pending.

Accordingly, GA/2/2022 stands disposed of as infructuous.

With the aforesaid directions, EC/109/2020 stands dismissed as withdrawn.

(RAVI KRISHAN KAPUR, J.)

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