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APD No. 323 of 2015
WITH
CS No. 128 of 1999

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

ESSEM CHEMICAL INDUSTRIES
Versus
CHEMCROWN EXPORTS LIMITED

Before:

The Hon'ble Justice I. P. MUKERJI

And

The Hon'ble Justice BIVAS PATTANAYAK

Date: 22nd June, 2022

Appearance:

Mr. Malay Ghosh, Sr. Adv.

Mr. Dipanjan Roy, Adv.

Mr. D.N. Misra, Adv.

Mr. Prashant Kr. Singh, Adv.

Mr. Dhruba Ghosh, Sr. Adv.

Mr. Soumyajit Ghosh, Adv.

Mr. Arindam Halder, Adv.

Ms. Sananda Ganguly, Adv.

The Court : During the course of hearing of this appeal, an extraordinary turn of events took place. Learned counsel for both parties Mr. Malay Kr. Ghosh, senior advocate and Mr. Dhruba Ghosh, senior advocate together scrutinised the documents relating to the transaction between the parties. Their clients present in Court assisted them. After deliberation, learned counsel agreed upon obtaining specific instructions from their respective clients that the respondent plaintiff on account of principal, interest and cost till date in relation to the transactions which are the subject matter of this proceedings is entitled to Rs.92 lakhs.

Learned counsel assured this Court that an affidavit jointly affirmed by the appellant and the respondent countersigned by their respective advocates-on-record recording the above settlement would be filed in this Court within a week from date (i.e. 29th June, 2022).

Conditional upon the said affidavit being filed in Court by 28th June, 2022, we pass a decree for Rs.92 lakhs in favour of the respondent plaintiff against the appellant defendant.

Fund to the credit of the appeal is lying in deposit with the learned Registrar, High Court, Original Side.

We direct the learned Registrar to hold a short reference with the parties to this appeal, determining the exact fund with interest till date in his hands.

From this fund, the Registrar's commission will be first appropriated. Thereafter, the above decretal amount of Rs. 92 lakhs will be made over by him to the respondent plaintiff. The balance, if any, shall be returned to the appellant defendant. In the unlikely event of the fund falling short of the decretal amount, the learned Registrar will record the same, so that the respondent plaintiff can realise the same through appropriate proceedings.

The decretal amount, if not fully satisfied by 15th July, 2022, will carry interest at the rate of 7.5 per cent simple interest per annum.

The decretal amount shall be paid by cheque drawn in the name of the respondent plaintiff / decree-holder and handed over to their advocate-on-record. Similarly, the refund, if any, shall be in the name of the appellant defendant and handed over to their advocate-on-record.

The suit is decreed accordingly.

The department is directed to draw up the decree expeditiously.

(I. P. MUKERJI, J.)

(BIVAS PATTANAYAK, J.)