

02.05.2023
SL No.8
Court No.8
(gc)

**FMA 154 of 2023
CAN 1 of 2023**

Indusind Bank Ltd.

Vs.

Jamal Sk.

Mr. Pratip Mukherjee,
Mr. Sayak Ranjan Ganguly,
Ms. Srijani Ghosh,
....for the Appellant.
Mr. Rameshwar Sinha,
Ms. Mamata Dutta,
...for the Respondent.

The respondent has substantially paid during the pendency of the appeal. There is disagreement with regard to the balance amount to be paid which admittedly is not substantial.

The learned Counsel for the appellant has fairly submitted that the Trial Court may be directed to find out the amount, if any, required to be paid by the respondent or if any excess amount is paid in this regard and may dispose of the suit on the basis thereof notwithstanding the pendency of the application for dismissal of the suit on the ground of existence of the arbitration agreement.

The parties are directed to file their documents in the form of an affidavit within two weeks from date to substantiate their claims which shall be decided by the learned Trial Court on that basis the suit itself may be disposed of.

The order of injunction passed by the Trial Court shall continue till the disposal of the suit.

Once the documents are filed in the form of an affidavit, the suit may itself be taken up and may be disposed of on the basis of the documentary evidence preferably within a period of three months from date without granting any adjournment to either of the parties.

The parties have agreed that no oral evidence would be required.

Accordingly, the appeal and the application stand disposed of.

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

(Uday Kumar, J.)

(Soumen Sen, J.)