

ORDER SHEET
APOT/127/2023
With
IA NO: GA/1/2023
AP/85/2023
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

MOTHER DAIRY CALCUTTA & ANR.
-Versus-
JAYA INDUSTRIES

BEFORE
The Hon'ble Justice I.P. MUKERJI
-And-
The Hon'ble Justice BISWAROOP CHOWDHURY
Date: 9th October, 2023

Mr. Joydeep Banerjee with
Mr. Bhaskar Prasad Vaisya &
Mr. Nilay Baran Mondal, Advs.
...for the appellants.

Mr. Suhashis Sen with
Mr. Abhishek Banerjee, Advs.
...for respondent.

We admit this appeal.

We are in a position to dispose of it dispensing with all formalities.

The question before the learned single judge was whether to refer the matter to the arbitral tribunal under section 17 of the Arbitration and Conciliation Act, 1996 or to hear out the section 9 application.

The learned judge has very elaborately considered the judgement of the Supreme Court in Arcelor Mittal Nippon Steel Limited vs. Esser Bulk Terminal Limited; (2022) 1 SCC 712.

Her ladyship has also viewed the order dated 15th March, 2023 made by another single judge as a result of the application of mind of the court. Hence the application resulting in the order dated 15th March, 2023 was “entertained” on 15th March, 2023 by the court, according to the learned single judge.

The reasons advanced by the learned single judge are sound. They do not call for any interference. The appeal and the stay application

are thus disposed of by affirming the impugned judgement and order dated 20th July, 2023 and observing that the section 9 application may be heard out by the learned first court at its convenience.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)