

ODC-2

IN THE HIGH COURT AT CALCUTTA
In appeal from its
ORDINARY ORIGINAL CIVIL JURISDICTION
CIVIL APPELLATE JURISDICTION
(COMMERCIAL DIVISION)

APOT/321/2023
WITH
CS/4/2020
IA NO. GA/1/2023
VINAYAK MICA EXPORT COMPANY AND ORS.
Vs
KUNAL FINANCE AND CREDIT PRIVATE LIMITED

Before:

The Hon'ble Justice I. P. MUKERJI

And

The Hon'ble Justice BISWAROOP CHOWDHURY

Date: 25th September, 2023.

Appearance:
Mr. Krishna Raj Thaker, Adv.
Ms. Aasia Hasan, Adv.

Mr. Rupak Ghosh, Adv.
Mr. S. Sarkar, Adv.
Mr. Aditya Kanodia, Adv.
Mr. Shayak Mitra, Adv.

The Court: This is an appeal from a judgment and order dated 14th July, 2023, passed by a learned Single Judge of this Court in its commercial division in an interim application. By the said judgment and order, conditional leave was given to the appellants/defendants to defend the suit only upon depositing a sum of Rs.1,22,34,027/- with the Registrar, Original Side within two weeks from the date of the said order. Incidental directions were given directing the Registrar to deposit the money received in a short

term deposit with the State Bank of India, Kolkata High Court Special Branch.

The preliminary point of objection taken by Mr. Rupak Ghosh, learned advocate appearing for the respondent, that the impugned judgment and order dated 14th July, 2023 is not appealable under section 13 of the Commercial Courts Act, 2015 succeeds as the said section does not provide for any appeal from an order directing a party to furnish security.

Hence, we are unable to admit the appeal. The appeal and the connected stay application are dismissed. We make it clear that we have not gone into the merits of the matter which are kept open.

Since in our opinion the appellants have approached this Court with the honest belief that an appeal lay from the impugned judgment and order, we observe and direct that reasonable time has to be given to the appellants to challenge the impugned judgment and order in an appropriate jurisdiction, if such right is vested with them. For this reason, the suit which is posted for trial on 28th September, 2023 may be listed on that date but is to be adjourned to be included in the monthly list of December, 2023.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)

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