

OCD-2

ORDER SHEET

CS 229 of 2023
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE
(COMMERCIAL DIVISION)

M/S. INTERNATIONAL FLAVOURS & FRAGRANCES PRIVATE LIMITED
VS.
M/S. BENGAL ESSENCE STORES & ANR.

BEFORE:
The Hon'ble JUSTICE ARINDAM MUKHERJEE
Date: 23rd November, 2023.

Mr. Arani Guha, Mr. Yash Dalmia, Advocates for the plaintiff.

The Court : At the stage of presentation of the plaint for instituting a suit for recovery of unpaid price of goods sold and delivered the plaintiff wants dispensation of formalities under Section 12A of the Commercial Courts Act, 2015. There is no pleading in the plaint wherefrom the contemplation of the plaintiff for urgent interim relief is apparent which in turn would give the plaintiff a right to seek for dispensation of the formalities under Section 12A of the Commercial Courts Act, 2015. The only paragraph pointed out is paragraph 28 which on a plain reading does not demonstrate contemplation of any urgent interim relief. In view of the ratio laid down in the recent Supreme Court judgment reported in 2023 SCC OnLine SC 1382 (Yamini Manohar Vs. TKD Keerthi) no dispensation of formalities on the basis of the facts alleged in the plaint can be granted.

The plaint is directed to be returned along with the court fees. The plaintiff shall be entitled to use the court fees for any subsequent suit between the same parties that may be filed after complying with the

mandatory requirement of pre-institution mediation as enumerated in Section 12A of the Commercial Courts Act, 2015. The department is directed to de-register the plaint and remove the number from the records so that the plaint is not shown as pending.

(ARINDAM MUKHERJEE, J.)

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