

06 21.11.2024

Ct-37

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**In the High Court at Calcutta
Civil Appellate Jurisdiction
Commercial Division**

FMA 594 of 2023

**Damodar Valley Corporation
Vs.
Mackintosh Burn Limited**

Mr. Mr. Swarajit Dey
Ms. Debarati Das
... For the Appellant

Mr. Tilak Kumar Bose, Sr. Adv
Mr. Arijit Bhowmick
Ms. Pooja Agarwal
... For the Respondent

- 1.** This appeal is arising out of an order passed by the Commercial Court, at Alipore in connection with Misc. Case (Arb.) 30 of 2021. This application is a Section 9 application in which the award-debtor was directed to return the performance guarantee by virtue of the award in favour of the award-holder. However, as on date the validity and claim period of the bank guarantee has expired. In view thereof, nothing remains to be decided in this appeal by reason of altered situation.
- 2.** On such consideration, the appeal being FMA 594 of 2023 stands dismissed.
- 3.** However, there shall be no order as to costs.

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

(Soumen Sen, J.)

(Biswaroop Chowdhury, J.)