

OD-2

ORDER SHEET

CS 1 of 2024

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

M/S. EMICHEM RIVATE LIMITED
VS.
M/S. JANAK ENTERPRISE & ORS.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 30th January, 2024.

Mrs. Suparna Mukherjee, Mr. Triptimoy Talukder, Mr. Diptomoy Talukder,
Advocates for the plaintiff.

The Court : At the time of presentation of plaint it is submitted on behalf of the proposed plaintiff that the transaction out of which the claim of the proposed plaintiff emanates is a commercial transaction within the meaning of Section 2(1)(c) of the Commercial Courts Act, 2015. The plaintiff, therefore, seeks withdrawal of the plaint along with the court fees. The proposed plaintiff also seeks leave to present the plaint for instituting a suit on the self-same cause in the Commercial Division of this Court.

It is submitted on behalf of the proposed plaintiff that in view of the provision of Section 12A of the Commercial Courts Act, 2015, the proposed plaintiff may have to go for pre-institution mediation. In the event the disputes are resolved through mediation, the plaintiff will have the right to seek refund of the court fees paid in respect of the instant plaint in accordance with law. In the alternative, if the proposed plaintiff has to file

the suit in the Commercial Division, the plaintiff will be entitled to utilize the same court fees. Unless the plaint is admitted on being presented, the plaint does not enter the records of the Court although it has been filed in the computer department of this Court and has been allotted a number. The department is, therefore, directed to return the plaint along with the court fees to the proposed plaintiff after completion of necessary formalities. The plaintiff will have the right to seek refund of the Court fees in accordance with law or in the alternative depending on the situation will be entitled to file a suit on the self-same cause by using the same Court fees. The department shall also de-register the suit number from the records of the Court.

(ARINDAM MUKHERJEE, J.)