

OD-8

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/275/2024
WITH
CS/112/2020
IA NO: GA/1/2024

EVERGREEN DEALER PRIVATE LIMITED
VS
GUJARAT ECO TEXTILE PARK LIMITED

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 18th November, 2024.

Appearance:

Mr. Meghnad Datta, Adv.
Mr. Rajesh Upadhyay, Adv.
Ms. Surabita Biswas, Adv.
...for the appellant.

Mr. Phiroze Edulji, Adv.
Mr. Saryati Dutta, Adv.
Ms. Priyanka Bhattacharyya, Adv.
...for the respondent.

The Court:- By consent of the parties both the appeal and the applications are heard together and are disposed of.

The appeal is arising out of an order passed by the learned single Judge on 20th June, 2024. The application has been filed for summary judgment under Chapter 13A of the Original Side Rules.

We have heard the learned Counsel for the parties. The commercial loan transaction of Rs.36,00,000/- being admitted in the written objection filed on behalf of the respondent, we feel that the said amount is required to be secured instead of directing the respondent to pay the said amount as the said

admission is with a rider that in the event the said amount is paid to a creditor of the plaintiff within a specified time the interest amount shall be waived. The defendant in our view may be given an opportunity to prove such agreement.

On such consideration we direct the respondent to furnish unconditional bank guarantee for a sum of Rs.36,00,000/- within two weeks from date to the satisfaction of the learned Registrar, Original Side. Such unconditional bank guarantee shall be effective for a period of two years and shall be renewed atleast 15 days prior to its expiry until the disposal of the suit. It would be open for the decree-holder to withdraw the said amount upon furnishing counter guarantee.

The Advocate on record of the respondent has waived service of the summons upon the defendant and shall enter appearance in the suit within a period of 10 days from date of service of summons with a copy of the plaint, if not served in the meantime and shall file a written statement in the suit within six weeks thereafter. In the event the plaint has been served the written statement shall be filed on or before 24th December, 2024. Discovery and inspection shall be completed by the parties within 4 weeks from the date of filing of the written statement. Liberty to mention the suit for early hearing. The filing of the written statement, however, shall be subject to the furnishing of security as directed above.

The impugned judgment shall remain stayed for a period of two weeks. In the event the bank guarantee is not furnished, the said sum shall be executable as a decree.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)

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