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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/408/2023
WITH CS/213/2016
RVWO/10/2023
IA NO: GA/1/2023

J.K. ENGINEERING PRIVATE LIMITED
VS
ANE INDUSTRIES PRIVATE LIMITED

BEFORE:
The Hon'ble JUSTICE SOUMEN SEN
AND
The Hon'ble JUSTICE BISWAROOP CHOWDHURY
Date : 3rd December, 2024.

Appearance:
Mr. Ishaan Saha, Adv.
Mr. Tanuj Kankani, Adv.
...for the appellant

Mr. Sourjya Roy, Adv.
...for the respondent.

The Court: In view of the fact that suits instituted in the Commercial Division are required to follow certain practice and procedure laid down in the Rules and the Commercial Court practice and having regard to the fact that the instant suit was instituted as a non-commercial suit and hence the transferring of the said suit to the Commercial Division is likely to cause inconvenience with regard to the procedure and practice, we permit the appellant to withdraw the present suit and institute a fresh suit within four weeks from date. In default, the plaintiff shall not be entitled to the benefits of Section 14 of the Limitation Act, 1963. In view of the fact that the plaintiff has proceeded with the suit diligently and was under a mistaken belief that the suit is of non-commercial nature and now having accepted the position that the suit

is required to be instituted in the Commercial Division, we permit the benefit of Section 14 of the Limitation Act for a period of four weeks. The appeal and application stand disposed of.

However, there shall be no order as to costs.

In view of the aforesaid order, CS/213/2016 shall not be shown as pending. The Department is directed to make appropriate endorsement in this regard.

CS/213/2016 is treated in day's list and disposed of in terms of this order.

The Court fees paid at the time of the institution of the suit in the Commercial Division may be utilised for the present purpose without there being any further requirement to put in fresh Court fees if found to be otherwise adequate within the period of four weeks as directed above.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)