

10.12.2025
Ct. No. 06
Item No.6
Cp/Gb

C.O. No. 3664 of 2025

M/s. Mahek-E-Punjab Retreat Private Limited
Vs.
Aryan Dhatu Private Limited

Mr. Jishnu Chowdhury, Sr. Advocate
Mr. Ritoban Sarkar
Mr. Ranjit Singh
Mr. Amar Singh
Ms. Tutul Das
Mr. Pranit Biswas
Ms. Aditi Gupta
Ms. Gunjan Jain

.....for the petitioner.

Mr. Aniruddha Chatterjee, Sr. Advocate
Mr. Pankaj Agarwal
Ms. Champa Pal

....for the opposite party.

1. This revisional application arises out of an order dated August 30, 2025, passed by the learned Civil Judge (Senior Division), 1st Court at Barasat in Arbitration Execution No. 119 of 2019.
2. Having considered the rival contentions of the parties this court is of the view that the execution proceeding should be transferred to the Commercial Court at Rajarhat, as the dispute involved is commercial in nature.
3. The provisions of Section 15 of the Commercial Courts Act, 2015 (hereinafter referred to as 'the said Act') are relevant and are quoted below:-

“15. Transfer of pending cases (1) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996 (26 of 1996), relating to a commercial dispute of a Specified Value pending in a High Court where a Commercial Division has been constituted, shall be transferred to the Commercial Division.

(2) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996 (26 of 1996), relating to a commercial dispute of a specified value pending in any civil court in any district or area in respect of which a Commercial Court has been constituted, shall be transferred to such Commercial Court:

Provided that no suit or application where the final judgment has been reserved by the court prior to the constitution of the Commercial Division or the Commercial Court shall be transferred either under sub-section (1) or sub-section (2).”

4. Mr. Jishnu Chowdhury, learned senior advocate assails the order and submits that the dispute between the parties is a commercial dispute. The execution case was wrongly filed before the learned Civil Judge (Senior Division), 1st Court at Barasat. The same should have been filed before the learned Commercial Court at Rajarhat.
5. The arbitral award was published on November 30, 2018 by a unilaterally appointed arbitrator. An application under Section 34 of the Arbitration and Conciliation Act challenging the award was filed before the learned Commercial Court at Rajarhat, District – 24 Parganas (North). The said application was dismissed for default. An application for restoration was filed along with an application for condonation of delay which were also dismissed. Challenging such

order, the petitioner moved a revisional application being C.O.681 of 2024, which was rejected by a coordinate Bench on September 24, 2025, inter alia, holding that the Arbitration and Conciliation Act did not make any provision for restoration of an application filed under the said Act, which was dismissed for default. Challenging such order, a Special Leave Application has been filed.

6. The contention of Mr. Chowdhury is that an application under Section 47 of the Code of Civil Procedure was filed before the learned Civil Judge (Senior Division), 1st Court at Barasat on the ground that the learned court did not have jurisdiction to continue with the execution case as the dispute was a commercial one and the execution case should be dismissed for having been filed in the wrong court. The learned court was of the view that the executing court could not go beyond the award and the application under Section 47 of the Code of Civil Procedure was maintainable in the execution proceeding.
7. Reliance has been placed by Mr. Chowdhury on certain decisions of the Hon'ble Apex court on the issue that an application under Section 47 of the code of Civil Procedure is maintainable, but the scope is limited.
8. Mr. Chatterjee, learned senior advocate appearing for the award holder submits that the award has been

executed and the property is in the possession of the award holder. The sale of the property is yet to commence. It is further submitted that the point of unilateral appointment was urged in the application under Section 34 of the Arbitration and Conciliation Act and the said application was dismissed. This issue is no longer res integra and had attained finality between the parties.

9. This Court is of the view that the executing court does not have jurisdiction to continue with this execution case in view of the provisions of Section 15(2) of the Commercial Courts Act, 2015. Admittedly, the dispute is commercial in nature.
10. Under such circumstances, the ARB. EXE Case No.119 of 2019 shall stand transferred from the court of the learned Civil Judge (Senior Division), 1st Court at Barasat to the court of the learned Judge Commercial Court at Rajarhat. The order impugned is set aside. The office is directed to communicate this order to the learned District Judge, North 24 Parganas for immediate compliance.
11. Accordingly, the application is disposed of.
12. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)