

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/58/2025
WITH
EC/22/2024
IA NO: GA/1/2025
SUVANKAR BANERJEE
VS
SWAPNA ROY

BEFORE :
HON'BLE JUSTICE SOUMEN SEN
-A N D-
HON'BLE JUSTICE BISWAROOP CHOWDHURY
DATE : March 04, 2025

Appearance :
Ms. Noelle Banerjee, Adv.
Mr. Ritaban Sarkar, Adv.
Mr. Saunak Mukherjee, Adv.
Mr. Dipankar Dey, Adv.
Mr. Dipanjan Dey, Adv.
...for appellant
Mr. Chayan Gupta, Adv.
Ms. Tiana Bhattacharyya, Adv.
Mr. Dilip Kr. Ghosh, Adv.
...for respondent/decree holder

1. In the appeal for the first time it is argued that powers and jurisdiction of CLB has not been vested in NCLT which is an appropriate forum continuing with pending CLB proceeding or for any new application including an execution application and hence this Court has no jurisdiction to decide an application for execution of a Terms of Settlement filed before the Appeal Court.
2. This matter is arising out of a proceeding under the Companies Act, 1956. A statutory appeal under Section 10F was filed before a learned Single Judge in which the parties filed Terms of Settlement. The order of the Court under Section 10F is now sought to be enforced in an

execution application filed in this Court. However, it appears from the impugned order that no such argument was advanced before learned Single Judge at the time of deciding the application for execution.

3. A point not urged it would not be fair for this Court to allow an argument to be made on points which have never been urged before learned Single Judge. On this score we are dismissing this application. However, it would be open for the appellant to take appropriate steps in accordance with law. It is needless to mention that in the event a point of jurisdiction is raised it would be open for learned Single Judge to decide such jurisdictional issue in accordance with law.
4. The appeal stands disposed of so also the application.
5. Affidavit of service filed in Court today is taken on record.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)

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