

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE
(Commercial Division)

APOT/369/2024
WITH
CS-COM/770/2024
IA NO: GA-COM/1/2024

SPML INFRA LIMITED
VERSUS
PCC LOGISTICS PRIVATE LIMITED AND ANR.

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 24th February, 2025.

Appearance:

Mr. Mohit Dang, Adv.
Mr. Sagnik Aditya, Adv.
...for the appellant

Mr. Rupak Ghosh, Adv.
Mr. Ayan Dutta, Adv.
Mr. Dilip Kr. Ghosh, Adv.
...for respondent no.1

Mr. Aritra Basu, Adv.
Mr. Uttam Kumar Mandal, Adv.
Ms. Maitree Roy, Adv.
...for respondent no.2

1. In view of the fact that the appellant has secured a sum of Rs.25 lakhs and the mediation proceeding has failed, we dispose of this appeal keeping the security as directed till the disposal of the application filed under Section 8 of the Arbitration and Conciliation Act, 1996.

2. The plaintiff respondent no.1 shall file affidavit-in-opposition within two weeks from date. Reply thereto, if any, within a week thereafter.
3. Liberty to mention before the learned Single Judge after the affidavits are complete for early hearing.
4. In the event the Section 8 application is disallowed, this interim order shall continue till the disposal of the suit as we are *prima facie* of the view that a sum of Rs.25 lakhs was due and payable under the agreement and the dispute raised in nature of damages yet to be quantified and does not inspire confidence having regard to the nature and quality of the objection, moreover, it does not cover the entire amount forming the subject-matter of the suit.
5. We make it clear that the observations are *prima facie*.
6. The appeal and the application are disposed of in terms of the aforesaid order.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)