

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APO/121/2024
WITH
CS/112/2020
IA NO: GA/2/2023

GUJARAT ECO TEXTILE PARK LIMITED
VS
EVERGREEN DEALER PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 20th January, 2025

Appearance:

Mr. Phiroze Edulji, Sr. Adv.

Mr. S. Dutta, Adv.

Ms. Priyanka Bhattacharya, Adv.

...for the appellant.

Mr. Meghnad Dutta, Adv.

Mr. Rajesh Upadhyay, Adv.

Ms. Surabita Biswas, Adv.

...for the respondent.

1. The appeal is arising out of an order dated 31st August, 2023 by which the application by the defendant for dismissal of the suit or for rejection of the plaint was dismissed.
2. It is not an appellable order under Order 43.
3. However, since it decides the question of jurisdiction, we heard the learned Counsel for the parties. The learned trial Court has examined the plaint and has formed an opinion that this is not a commercial transaction. The said view is *prima facie*.
4. Moreover, on the basis of the submission made on behalf of the respondent, by order dated 18th November, 2024 read with order dated 29th November, 2024, we disposed of the appeal filed by the plaintiff by directing the defendant to furnish unconditional bank

guarantee for a sum of Rs. 36 lakhs and the said order has been complied with. The defendant has also filed written statement in the suit.

5. In view of such circumstances, we are not inclined to interfere with the order.
6. Accordingly, the appeal and the connected applications are disposed of.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)