

Jvs.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**COMMERCIAL APPEAL NO. 3 OF 2025
WITH
INTERIM APPLICATION NO. 1777 OF 2025**

Messers Kalyani Corporation	}	Appellant
versus		
M/s. Nina Sales Corporation	}	Respondent

Mr. Vaibhav Ghogre with Mr. Sarvesh Gawade i/b. Mr. Suraj Ghogare for appellant.

Mr. Pradip Nair i/b. Mr. Vijay Svaghela for respondent.

**CORAM: ALOK ARADHE, CJ. &
M. S. KARNIK, J.**

DATE: APRIL 2, 2025

ORDER: (Per Chief Justice)

1. This appeal under section 13(1-A) of the Commercial Courts Act, 2015 has been filed against an order dated 23rd October 2023, by which, the notice of motion seeking setting aside the *ex-parte* decree has been rejected on the ground that the appellant has failed to show any sufficient cause for setting aside the *ex-parte* decree.

2. Facts giving rise to filing of the present appeal, briefly stated, are that the respondent had filed a suit for recovery of an amount of Rs.3,55,000/- along with interest. A summons was issued to the appellant on its business address, which was

returned un-served with the postal remark "left". The plaintiff, thereafter, from the GST record of the defendant, found out the residential address of the proprietor of the defendant firm and a fresh summons was issued, which was served on 2nd July 2022 on the appellant requiring her to appear before the Court on 8th August 2022. The appellant did not appear before the Court on 8th August 2022, whereupon, the Court proceeded *ex-parte* against the appellant and passed the *ex-parte* judgement and decree dated 19th September 2022.

3. The appellant filed application on 21st December 2022 seeking setting aside of the *ex-parte* judgement and decree, which has been rejected by the impugned order.

4. In our opinion, the dispute between the parties can be settled through mediation. Hence, we appoint Mr.Nitin Thakker, learned senior counsel as Mediator to adjudicate the dispute between the parties.

5. The parties undertake to appear before the learned Mediator through Video Conferencing or in-person on 8th April 2024 along with a copy of this order.

6. List on 22nd April 2025.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)