

Present: Sri Kumar Goswami (JO Code:WB00714)
Judge. Commercial Court at Alipore
Money Execution. 06 of 2019
CNR No. WBSP18-000157-2019

Order No. 20
13.04.2021

ORDERED
I.A No. 121 of 2020

1. Today is fixed for passing order in respect of the present application. The present application has been filed by the Judgement Debtor No. 1. praying for return of the present execution proceedings before the Ld. Civil Judge, (Senior Division), First Court at Alipore. The above application has been made on two grounds namely **a)** the suit is not in nature of commercial dispute **b)** Title Suit 27/2009 is pending before the above Court.
2. Whether, the suit is of commercial nature or not, the issue has been decided vide Order No. 4 dated 06-02-2020 by this court.
3. It has been submitted that on the basis of an ex parte order as passed by the Ld. Civil Judge, (Senior Division), First Court at Alipore, the decree has been passed by that court on ex parte. However, Judgement Debtor No. 1 has preferred an application being Misc. Case No. 215 of 2019 before that court for setting aside the said ex parte decree and already notice has been issued.
4. The contention of above submission has been challenged on behalf of the Decree Holder by filing affidavit and also by filing written arguments. If the application for setting aside an ex parte order is tried by one court and execution is tried by another court, there would be conflict of outcome of the proceedings.
5. Accordingly, at this stage, the application as filed by the Judgement Debtor No. 1 is allowed on contest.

6. *Let the execution case be transferred to the Court of Ld. Civil Judge, (Senior Division), First Court at Alipore for further proceeding and both parties are directed to appear before that court on 4th May, 2021 at 10:30 am.*
7. *Department is directed to return the record within 24 hours.*
8. *The present I.A No. 121 of 2020 is disposed off.*

Dictated and corrected by me

Sd/-

Judge, Commercial Court at Alipore,
For South 24 Parganas, Purba Midnapore,
Paschim Midnapore & Jhargram

Sd/-

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For South 24 Parganas, Purba Midnapore,
Paschim Midnapore & Jhargram