

OD-10 & 11

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

IA NO. GA/4/2022
In CS/164/2017

NESTLE INDIA LIMITED
Vs
EASTERN COALFIELDS LIMITED

&

IA NO. GA/5/2023
In CS/164/2017

NESTLE INDIA LIMITED
Vs
EASTERN COALFIELDS LIMITED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 30TH March, 2023.

Appearance:
Mr. Joy Saha, Sr. Adv.
Mr. D. Mitra, Adv.
Mr. Meghnath Dutt, Adv.
..for the petitioner

Mr. Saunak Sengupta, Adv.
Mr. Pradipta Bose, Adv.
..for the defendant.

The Court: Counsel for the respective parties are present.

Counsel for the defendant has filed affidavit in reply in connection with GA No. 5 of 2023. Let the same be kept with the record.

Counsel for the petitioner has filed an application being GA No. 5 of 2023 praying for transfer of the instant suit from this Court to the Commercial Division on the ground that the plaintiff has filed the instant

suit on 31st July, 2017 and at the point of time the Commercial Division of this Court was not established.

Counsel for the petitioner submits that the Court of Commercial Division was established only on 16th September, 2017 and Section 12A has come into effect on 3rd May, 2018.

Counsel for the petitioner submits that as the transaction between the parties are commercial in nature and as per the provision of Section 15 of the Commercial Courts Act, CS No. 164 of 2017 is required to be transferred from this Court to commercial Division for proper adjudication.

On the other hand, the defendant has filed an application being GA No. 4 of 2022 praying for dismissal of the suit on the ground that the suit filed by the plaintiff is not maintainable before this Court as the transaction between the parties are commercial in nature and the suit is to be filed before the Commercial Division.

Considering the submission made by the Counsel for the respective parties, this Court finds that admittedly the dispute is commercial in nature and the plaintiff has filed the instant suit prior to establishment of the Commercial Court and as such in terms of Section 15 of the Commercial Courts Act the suit is required to be transferred from this Court to Commercial Division.

Accordingly, GA No. 5 of 2023 is disposed of by transferring CS No. 164 of 2017 from this Court to the Commercial Division. The plaintiff is

directed to take proper steps in compliance of the provision as provided under the Commercial Courts Act. As the suit has been transferred from this Court, no order can be passed in connection with GA No. 4 of 2022, accordingly the same is disposed of.

(KRISHNA RAO, J.)

Sbghosh