

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA  
ORDINARY ORIGINAL CIVIL JURISDICTION  
ORIGINAL SIDE

CS/154/2005

IA NO: GA/7/2025, GA/8/2025, GA/9/2025

THE CALCUTTA GUJARATI EDUCATION SOCIETY & ANR.  
Vs  
KAMARHATTY CO. LTD.

BEFORE:  
THE HON'BLE JUSTICE ANANYA BANDYOPADHYAY  
Date: 25<sup>th</sup> February, 2026

Appearance:  
Mrs. Noelle Banerjee, Sr. Adv.  
Mr. Dipanjan Dey, Adv.  
...for the plaintiffs

Mr. Chayan Gupta, Adv.  
Mr. Pourush Bandyopadhyay, Adv.  
...for the defendant

The Court:- The Learned Advocate representing the plaintiffs submitted that the instant suit and the application arising out of the same cannot be dealt by this Court in adjudication since the dispute in question pertains to commercial transaction.

The Learned Advocate representing the plaintiff has referred to the provisions of The High Court at Calcutta Commercial Courts Practice Directions, 2021 in Chapter 2 Part II Rule 5 with regard to Transfer of records. The Learned Advocate representing the applicant further relied upon

the decisions cited in 2025 SCC OnLine Cal 6769 and 2025 SCC OnLine 5076, being the Division Bench judgment of this Court, wherein the respective Courts had opined that in view of Clause 2(1)(c)(7) of the Commercial Courts Act, the dispute involved in the instant case qualified as a commercial dispute.

The Learned Advocate representing the defendant strenuously opposed such contention stating though the dispute relates to a commercial transaction, notice had been issued under Section 106 of the Transfer of Property Act. However, in reality it had to be governed by the West Bengal Premises Tenancy Act, 1997. Moreover, it was submitted that the suit had been valued improperly whereby this Court too did not have the jurisdiction to try the same and challenged the question of maintainability. Moreover, the specified suit valuation had not been assessed appropriately to be contextually treated as commercial dispute to be tried by the Commercial Division of this Court. Paragraphs 21 and 23 of the aforesaid judgment reported in 2025 SCC OnLine 5076 are quoted below :

*“21. The Commercial Courts Act has not specified the disputes arising out of agreements relating to immovable property used exclusively in trade or commerce which would qualify as a ‘commercial dispute’ defined in section 2(1)(c) of the Act. When the Legislature has not limited the disputes to forfeiture for violation of any of the clauses of the lease agreements or specific performance of the agreements or renewal clauses and has in fact, widened the scope of disputes by the Explanation, the findings to the contrary in Deepak Polymer (supra) are*

*in ignorance of the provisions of the Commercial Courts Act and are therefore, with respect, per incuriam.*

*23. The defendants did not comply with the said notice dated 30<sup>th</sup> March 2023. Hence the suit was filed for eviction with other consequential reliefs. The defendants filed an application for rejection of the plaint inter alia, on the ground that the plaint does not disclose any cause of action, it suffers from non-joinder of necessary parties, the suit is barred by law and the plaint has been grossly overvalued to invoke the jurisdiction of the Commercial Division of this Hon'ble Court as the plaintiff is not entitled to any mesne profit due to attachment of rent by the Calcutta Municipal Corporation."*

Paragraph 21 of the aforesaid judgment reported in 2025 SCC OnLine Cal 6769 is quoted below:

*"21. .... Suffice it to say that there may be cases where a cause of action arising under a statute in relation to an immovable property also may qualify as commercial dispute within the meaning of Section 2(1)(c)(vii) of the said Act. For example, the cause of action in an eviction suit based on service of notice under Section 106 of the Transfer of Property Act, 1882, may be termed as a statutory cause of action but the same may amount to a 'commercial dispute' also. If such dispute arises in relation to a written agreement, or may be an undisputed oral agreement pertaining to the concerned property which is used exclusively for trade and commerce. In this connection one may refer to the decision dated June 18, 2025, rendered by a Coordinate*

*Bench of this Court in IA No. GA-COM/2/2024 In CS (COM) NO. 4 of 2023 (T.E. Thomson & Company Limited v. Swarnalata Chopra Nee Kapur).”*

In view of the statutory provisions and the context of the decisions cited above, the questions raised by the Learned Advocate representing the defendants cannot be decided by this Court for want of determination including the question of inadequate valuation of the suit since the plaint itself reflected commercial transaction.

Learned Advocate representing the defendant raised an issue of the suit being improperly valued and also raised questions with regard to its maintainability. This Court being precluded by the statute to deal with any dispute arising out of commercial transaction will not interfere to decide or to even consider the same.

The parties are to agitate their respective issues before the appropriate forum.

(ANANYA BANDYOPADHYAY, J.)