

OC-5

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA  
ORIGINAL SIDE  
[COMMERCIAL DIVISION]

CS-COM/834/2024

J K ENGINEERING PRIVATE LIMITED  
VS  
ANE INDUSTRIES PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : January 06, 2025.

Appearance:

Mr. Anirban Ray, Sr. Adv.

Mr. Sayantan Sengupta, Adv.

Mr. Sanjib Bandyopadhyay, Adv.

Mr. Sounak Banerjee, Adv.

...for the plaintiff

The Court: Mr. Anirban Ray, learned Senior Counsel, is appearing for the plaintiff.

Counsel for the plaintiff has filed the present suit praying for a decree of sum of Rs.16,51,85,702/- along with interest and connected prayers.

Counsel for the plaintiff prays for leave under Order II Rule 2 of the of the Code of Civil Procedure, Clause 12 of the Letters Patent, 1865 and Section 12A of the Commercial Courts Act.

Counsel for the plaintiff submits that due to the wrongful and illegal act of the defendant, plaintiff has suffered loss and injury and though the plaintiff has filed the suit for recovery of the said amount but the plaintiff

apprehends that the amount may further increase in future and as such leave under Order II Rule 2 of the Code of Civil Procedure is required.

Counsel for the plaintiff further submitted that part of the cause of action arose within the jurisdiction of this Court and part of the cause of action arose outside the jurisdiction of this Court. Thus, he prayed for leave under Clause 12 of the Letters Patent.

As regards Section 12A of the Commercial Courts Act, Counsel for the plaintiff submits that initially the plaintiff has filed the suit in the non-commercial division, now, in terms of the order passed by the Hon'ble Division Bench, the plaintiff has filed the present suit before this Court and the claim of the plaintiff is aware by the defendant and there is every apprehension that the defendant will alienate the assets if the plaintiff will go for the mediation in the meantime.

Counsel for the plaintiff submits, there is an urgency to move the present suit without initiation of pre-mediation process.

Heard the learned Counsel for the plaintiff and perused the pleadings.

Leave under Order II Rule 2 of the CPC, Clause 12 of the Letters Patent and Section 12A of the Commercial Courts Act are granted.

Plaint is admitted subject to scrutiny by the department.

Counsel for the plaintiff submits that in terms of the order passed by the Hon'ble Appellate Court, the department has refunded the Court Fee and he will deposit the Court Fee in the department within one week from date.

In view of the submission made by the Counsel for the plaintiff, the plaintiff is granted leave to deposit the Court Fee in the department within a week from date through learned Receiver Mr. Banerjee.

(KRISHNA RAO, J.)

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