

OCD-4

ORDER SHEET

IA NO. GA-COM/1/2024

In

EC/485/2023

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

CHOLAMANDALAM INVESTMENT AND FINANCE CO. LTD.

VS

KAYAL COOLING SOLUTIONS PVT. LTD AND ANR.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 11th September, 2024.

Appearance:

Mr. Sashwat Nayak, Adv.

Mr. Ranjit Singh, Adv.

Ms. Pooja Sett, Adv.

...for the petitioner

The Court: The affidavit of service which is before the Court indicates that good service has been effected on the respondents.

The present application for execution was dismissed as withdrawn on July 8, 2024 on the impression being given on behalf of the award-holder that settlement has been arrived at between the parties. However, learned counsel for the petitioner, by relying on the averments in the present application, submits that the said submission was a result of miscommunication at lower levels of the vertical hierarchy of the petitioner's officials.

The particulars of such miscommunication have been pleaded in the present application which go on to show that the petition was withdrawn on

an entirely mistaken assumption of settlement. As such, since there was no settlement at all in the present case at the relevant point of time, the petitioner/award-holder now seeks a recall of the previous order and restoration of the execution application to its original file and number.

Since the award-debtors choose not to appear despite service, there is no scope of any controversy with the averments made in the application, which is supported on oath by affidavit.

Accordingly, GA-COM/1/2024 is allowed, thereby recalling the order dated July 8, 2024 passed in EC/485/2023 and restoring the said execution case to its original file and number.

The award-debtors shall file their affidavits of assets within September 30, 2024.

The matter shall be listed on November 7, 2024 under the heading “Examination of Judgment-Debtors”, when the award-debtor no.2 shall be personally present in Court for being examined by the award-holder.

The learned advocate-on-record for the petitioner shall communicate a server copy of this order to the award-debtors at the earliest in order to ensure compliance.

(SABYASACHI BHATTACHARYYA, J.)