

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE
[Commercial Division]

CS-COM/4/2023
IA NO: GA-COM/3/2024,
GA-COM/4/2024

T E THOMSON AND COMPANY LIMITED
VS
SWARNALATA CHOPRA NEE KAPUR AND ANR

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 23rd December, 2024.

Appearance:

Mr. Chayan Gupta, Adv.

Mr. Dwip Raj Basu, Adv.

...for the plaintiff.

Mr. Ranjan Bachawat, Sr. Adv.

Mr. Sarosij Dasgupta, Adv.

Mr. Javed K. Sanwarwala, Adv.

Mr. Shariq A. Sanwarwala, Adv.

Ms. Sadaf Aafmin, Adv.

...for the defendant no.1.

1. This matter is assigned to the Division Bench presided over by one of us (Soumen Sen, J.) by administrative order of the Hon'ble The Chief Justice dated 4th November, 2024. However, this matter is listed today. The Hon'ble Justice Krishna Rao has referred the matter to the Hon'ble The Chief Justice to constitute a special Bench to decide the following issues:-

- a. *Whether after issuance of notice under Section 106 of the Transfer of Property Act, 1882, the defendant or the parties cannot rely the agreement/or Lease Deed as the case may be?*
 - b. *Whether only on the basis of the case initiated under Section 106 of the Transfer of Property Act, 1882, it can be said that Court cannot look into the agreement between the parties and thus the suit cannot be treated as commercial suit in terms of Section 2(1)(c)(vii) of the Commercial Courts Act, 2015?*
 - c. *Whether if the Explanation Clause of Section 2(1)(c) of the Commercial Courts Act, 2015 taken into consideration along with Section 106 of the Transfer of Property Act, 1882, the suit can be treated as commercial suit in terms of the lease agreement/rent agreement entered between the parties?*
2. The said reference was made by reason of a contrary view being taken by Hon'ble Justice Sabyasachi Bhattacharyya in *Deepak Polymers Private Limited Vs. Anchor Investments Private Limited* earlier on 24th June, 2021.
 3. The matter shall be listed on 17th January, 2025.
 4. The parties are directed to file written notes of argument in the meantime.
 5. It appears that the Department has shown GA-COM/2/2024 as disposed of. In view of the reference, this matter cannot be shown as disposed of.

6. The Registrar, IT to carry out the necessary rectification in the said suits of GA-COM/2/2024.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)

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