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

Present:
The Hon'ble Justice Ananya Bandyopadhyay

EC 223 Of 2017

IA No: GA/1/2026, GA/2/2026

Radharani Agarwal
-Vs-
Vinayak Mica Export Company & Ors.

For the Decree Holder : Mr. Ritoban Sarkar, Adv.
Mr. Andolon Sarkar, Adv.
Ms. Sreeja Mukherjee, Adv.
Mr. Dipanjan Dey, Adv.

For the judgment debtor No.1 and 3 : Mr. Rohit Banerjee, Adv.
Mr. Yubaraj Bhattacharyya, Adv.
Ms. Aasia Hasan
Ms. Akansha Yadav, Adv.

Judgment on : 12.10.2026

Ananya Bandyopadhyay, J.:-

1. The principal question arising for determination in this application is whether an execution proceeding seeking enforcement of a compromise decree, passed upon settlement of a monetary controversy arising from transactions having the attributes of a commercial dispute, can be severed in law from the commercial controversy which culminated in such decree and thereby be kept outside the jurisdictional regime of the Commercial Courts Act, 2015. The answer requires examination not merely of the stage at which the proceeding presently stands, but of the transaction which generated the original claim, the pleadings by which the controversy was brought before the Court, the documents recording the monetary dealings, the settlement by which the parties brought the

controversy to a consensual conclusion, the decree incorporating such settlement, and the statutory expression *"suits and applications, …relating to a commercial dispute of a Specified Value"* appearing in Section 15 of the said Act. Section 15(1) expressly provides for transfer of suits and applications relating to a commercial dispute of the specified value pending before a High Court where a Commercial Division has been constituted.

2. G.A. No. 2 of 2026 has been taken out by the judgment debtors seeking, inter alia, recall of the order dated 7th August 2026, a declaration that the dispute forming the subject matter of E.C. No. 223 of 2017 is a commercial dispute within the meaning of Section 2(1)(c) of the Commercial Courts Act, 2015 and transfer of the execution proceeding to the Commercial Division.

3. The judgment debtors have also raised objections concerning the death of the original decree holder, the subsequent claim of representation of her estate and the maintainability of the execution proceeding on that account. The questions relating to representation of the decree holder's estate stand on a different legal plane and need not be conflated with the question presently under consideration, namely, the character of the dispute and the jurisdictional consequence flowing from it.

4. The Learned Advocates for the judgment debtors have submitted that the plaint in C.S. No. 339 of 2015 itself discloses a transaction possessing commercial attributes. Learned Advocate for the decree holder has submitted that the advances constituted a friendly loan between persons acquainted with each other, that the original controversy came to an end

by the settlement, and that the compromise decree cannot thereafter be treated as a commercial dispute for the purpose of execution.

5. The submissions have been considered with reference to the plaint, the documents referred to in the pleadings, the terms of settlement, the decree and the authorities cited by both sides.

6. C.S. No. 339 of 2015 was instituted by Radharani Agarwal for recovery of money from Vinayak Mica Export Company, a registered partnership firm, and its partners.

7. The plaint disclosed advances of Rs.18,00,000/- on 27th August 2010, Rs.10,00,000/- on 10th March 2011 and Rs.8,00,000/- on 21st September 2011, aggregating Rs.36,00,000/-.

8. The money was pleaded as financial assistance extended to the partnership concern for meeting its financial requirements. Interest at the rate of 9 per cent per annum was stipulated. The later advances carried specified periods for repayment. The transaction was followed by receipts dated 11th March 2011 and 2nd September 2011, confirmation of accounts dated 1st April 2011, bank records, correspondence dated 30th July 2014, cheques, memoranda of dishonour and demands for repayment.

9. The cumulative effect of the pleadings and documents deserves greater weight than the description which either side may subsequently attach to the relationship between the parties.

10. A particularly important submission on behalf of the decree holder is founded upon the reference in the plaint to the parties being acquainted with each other. The judgment debtors contend that such reference

cannot convert the transaction into a friendly loan. The submission merits acceptance in principle.

11. Acquaintance and friendship are not synonymous expressions. Acquaintance denotes knowledge or familiarity with another person. Friendship signifies a personal relationship of a substantially different character. Mere acquaintance supplies no necessary inference of personal confidence, intimacy or private accommodation. A substantial financial transaction cannot be classified as a friendly loan merely because the lender and borrower happened to know each other.

12. The legal character of the transaction has to emerge from the circumstances in which the money was advanced and from the documents by which the transaction was recorded and pursued. A description such as “friendly loan” cannot substitute for proof of the personal relationship said to have furnished the reason for the advance.

13. The present record contains features extending considerably beyond a private accommodation between acquaintances. The advances were made on three separate occasions. The aggregate amount was Rs.36,00,000/-. The borrower was a partnership firm. Interest was stipulated. The financial requirements of the firm constituted the pleaded purpose. Receipts and confirmation of accounts were generated. Bank records recorded the monetary movement. Cheques, memoranda of dishonour, correspondence and demand notices followed.

14. A person may know another person without being his friend. A lender may have prior acquaintance with a borrower without advancing money by reason of personal friendship. A commercial transaction does not lose

its commercial character merely because the parties have some pre-existing social or professional familiarity.

15. The Court therefore cannot allow the expression “friendly loan” to become determinative merely by repetition. The character of a transaction must be gathered from its substance, its purpose, the status of the parties, the terms governing the advance and the documentary record by which the liability was created, acknowledged and pursued.

16. Section 2(1)(c)(i) of the Commercial Courts Act, 2015 includes disputes arising from ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents.

17. The expression “mercantile document” has received judicial consideration by the Division Bench of this Court in *Venkatesh Vincom Private Limited v. M/s. Spice of Joy, Multicuisine Restaurant Cum Bar & Ors [2022 SCC OnLine Cal 3010].* The Court examined the definition of “document” in Section 2(1)(f), recognised its wide amplitude and held that a mercantile document need not necessarily be a formal agreement executed at the inception of the transaction. Cheques, receipts and other writings recording the transaction may satisfy the statutory requirement. The Court also considered the fact that the money had been utilised for the business of the partnership firm and that the firm's records corroborated the transaction.

18. The principle emerging from *Venkatesh Vincom* (supra) is particularly relevant here. Section 2(1)(c)(i) does not prescribe a particular form of mercantile document. The statutory enquiry concerns whether the

transaction between the persons concerned and the documents recording it bear the commercial character contemplated by the provision.

19. The present case contains receipts, confirmation of accounts, bank records, correspondence, cheques and memoranda of dishonour. Such documents do not merely establish that money changed hands. They record a financial transaction extending over several years and demonstrate the manner in which the liability was acknowledged and pursued.

20. The status of the borrower also assumes importance. Vinayak Mica Export Company was a partnership concern. The money was pleaded as financial assistance for its financial requirements. The transaction therefore cannot be examined as though the money had been advanced to an individual for a private domestic purpose.

21. The decision in *Strong Towers Private Limited v. Karnani Constructions & Ors.*, *2025 SCC OnLine Cal 7853*, also proceeds upon an examination of the transaction, its commercial character and the documentary material relied upon by the parties. The Court considered confirmation of accounts and other financial records as relevant indicators in determining whether a monetary claim possessed the attributes of a commercial dispute.

22. The judgment debtors have therefore established a substantial basis for their contention that the original controversy fell within Section 2(1)(c)(i).

23. The decree holder has relied upon *Ladymoon Towers Private Limited v. Mahendra Investment Advisors Private Limited*, 2021 SCC OnLine Cal 4240, and *Puja Lohia v. Tanay Agarwal*, 2024 SCC OnLine Cal 10457.

24. *Ladymoon Towers* (supra) involved a short-term loan where the parties were known to each other and the personal relationship formed an important part of the explanation for the transaction. The plaintiff was not carrying on the business of lending money and the Court also found an absence of documentary material possessing the character of mercantile documents. The transaction was consequently treated as a personal loan rather than a commercial transaction.

25. The ratio of *Ladymoon Towers* (supra) cannot be expanded into a proposition that every monetary advance between persons who know each other is a friendly loan. The decision turned upon the factual and documentary circumstances before the Court.

26. The present case contains circumstances materially different from *Ladymoon Towers* (supra). The borrower was a partnership firm. Three substantial advances were pleaded. Interest was stipulated. Financial assistance to the partnership concern constituted the pleaded purpose. Receipts, confirmation of accounts, bank records, correspondence, cheques and dishonour memoranda form part of the documentary chain.

27. *Puja Lohia* (supra) likewise concerned a materially different factual matrix. The Court was dealing with a loan of Rs.5,50,000/- advanced in circumstances reflecting personal familiarity, without material demonstrating the documentary incidents of a commercial transaction. The Court found no basis for treating the plaintiff as carrying on a lending business and no mercantile document was shown to have recorded the transaction.

28. The present case cannot be brought within that factual pattern merely by placing reliance upon the word “acquaintance”. A finding of friendship requires more than a finding of acquaintance, and a finding of a friendly loan requires more than the existence of personal familiarity between lender and borrower.
29. The authorities cited by the decree holder therefore do not detract from the conclusion that the antecedent transaction disclosed in the present record possessed commercial attributes.
30. The decree holder has advanced a further submission of greater consequence. It is contended that the settlement dated 26th September 2016 brought the dispute to an end and that the consent decree dated 29th September 2016 consequently cannot continue to bear the character of a commercial dispute.
31. The proposition requires a distinction between termination of the controversy and extinction of its juridical connection with the transaction from which it arose.
32. The settlement did terminate the controversy between the parties. The parties elected to resolve the claim by agreement rather than carry the monetary dispute to adjudication. The undertaking followed on 28th September 2016 and the decree was passed on 29th September 2016 upon the settlement.
33. The legal consequence of such settlement was not the creation of an entirely new and unrelated transaction. The settlement crystallised the rights and obligations which emerged from the controversy already before

the Court. The decree incorporated the terms by which the parties agreed to resolve that controversy.

34. The execution proceeding now seeks enforcement of those very obligations.

35. The compromise altered the mode of resolution of the dispute; it did not alter the transaction from which the dispute had arisen. The decree changed the procedural posture of the controversy; it did not sever the legal connection between the controversy and its commercial origin.

36. A compromise decree cannot be examined as though it descended upon the litigation without antecedent cause. Its terms derive their legal force from the settlement of the claim which was before the Court. The execution proceeding, in turn, derives its subject matter from the obligations incorporated in that decree.

37. The statutory expression in Section 15 of the Commercial Courts Act, 2015 is significant in this regard. Legislature has employed the words "relating to a commercial dispute". The expression is not confined to a proceeding in which the original cause of action remains open for adjudication. Section 15(1) of the said Act covers suits and applications having the requisite legal relationship with a commercial dispute of the specified value.

38. The present execution proceeding has a direct and immediate relationship with the commercial controversy. The sequence is uninterrupted: monetary advances to the partnership concern - claim for recovery - settlement of that claim - compromise decree - execution of the obligations incorporated in the decree.

39. Treating the execution proceeding as though it arose from an entirely different context would disregard the juridical source of the decree and the subject matter of the execution.

40. The decree holder has relied upon *India Media Services Private Limited v. Indian Express Newspaper (Bombay) Limited & Anr.*, APOT 164 of 2021 in CS-190 of 2017.

41. The decision requires careful distinction. The controversy before the Division Bench arose from a later dispute concerning a conveyance executed after the compromise decree. The later proceeding was not an execution proceeding seeking enforcement of the original compromise decree. The Division Bench treated the later dispute as arising from the subsequent transaction rather than from the commercial controversy which had already been settled.

42. The present case contains no such intervening transaction. E.C. No. 223 of 2017 seeks enforcement of the very compromise decree passed in consequence of the settlement of C.S. No. 339 of 2015.

43. *India Media Services* (supra) therefore supports, rather than defeats, the need to identify the precise juridical source of the proceeding. A later independent dispute may possess a cause of action distinct from the earlier commercial controversy. Execution of the decree arising from the earlier controversy stands on a different plane.

44. The distinction can be stated simply: a new dispute arising after a compromise decree may have a new cause of action; execution of the compromise decree seeks enforcement of the rights already crystallised by that decree.

45. The more difficult question concerns the construction of the expression "applications" in Section 15 of the Commercial Courts Act, 2015.

46. The judgment debtors submitted the execution proceeding related to the commercial dispute and should therefore be transferred. The decree holder relies upon *South Eastern Coalfields Ltd. v. M/s. Tirupati Construction*, 2018 SCC OnLine Chh 63, together with the authorities following the narrower construction of Section 15 of the said Act.

47. *South Eastern Coalfields* considered execution of an arbitral award and held that the expression "application" in Section 15(2) of the said Act referred to an original application and did not extend to execution after the award had attained finality. The decision consequently declined transfer of the execution proceeding.

48. The reasoning in *South Eastern Coalfields* (supra) merits acceptance. The present matter, however, involves execution of a compromise decree passed by this Court in a civil suit, rather than execution of an arbitral award. The statutory implication and the juridical source of the decree are consequently different.

49. A contrary line of authority has also emerged. In *M/s. Obulapuram Mining Company Private Limited v. M/s. R.K. Mining Private Limited [2023 SCC OnLine AP 2031]*, the Andhra Pradesh High Court considered whether execution petitions relating to commercial decrees fall within the statutory scheme and referred to the contrary decision of the Delhi High Court in *Delhi Chemical & Pharmaceutical Works Pvt. Ltd. v. Himgiri Realtors Pvt. Ltd [2021 SCC OnLine Del 3603].* The Andhra Pradesh High Court

favoured the broader construction of the expression "application" and treated execution as falling within the commercial jurisdictional regime.

50. The conflict demonstrates that execution cannot be excluded merely by assigning it the adjective "subsequent". The question has to be answered by examining the statutory language and the nature of the decree sought to be enforced.

51. The Kerala High Court in *Beta Exim Logistics (P) Ltd. v. Central Railside Warehouse Co. Ltd.*, 2023 SCC OnLine Ker 1392, adopted the narrower approach, while later decisions have recognised the competing interpretation. The authorities therefore disclose divergent judicial approaches rather than a settled rule that every execution proceeding necessarily falls outside Section 15 of the said Act.

52. The present case also contains a feature which requires emphasis. The execution proceeding is pending before the High Court itself. Section 15(1) of the Commercial Courts Act, 2015 expressly deals with suits and applications relating to commercial disputes of the specified value pending before a High Court where a Commercial Division has been constituted.

53. The statutory language cannot be read in isolation from the purpose of the enactment. The Commercial Courts Act, 2015 was enacted to provide a specialised and expeditious regime for disputes possessing a commercial character. A construction by which the commercial jurisdiction terminates precisely when the decree requires enforcement would require compelling statutory language.

54. Such language is absent from Section 15(1) of the said Act. The provision does not say that the commercial character ceases upon the passing of a decree. It refers to suits and applications relating to a commercial dispute.

55. The execution proceeding before this Court therefore has to be tested by reference to its actual subject matter. Its subject matter is the enforcement of the compromise decree arising from the commercial monetary controversy pleaded in C.S. No. 339 of 2015.

56. The legal connection is direct. The execution does not involve a new contract, a later transaction or an independent cause of action. The obligations sought to be enforced are the obligations incorporated in the compromise decree.

57. The tabular statement in E.C. No. 223 of 2017 records a claim of Rs.39,59,189/-.

58. The amount exceeds the specified-value threshold of Rs.10 lakh applicable to commercial disputes in West Bengal after the notification dated 20 March 2020. The earlier notification had prescribed a threshold of Rs.1 crore, which was subsequently reduced to an amount exceeding Rs.10 lakh. The Calcutta High Court has recognised the effect of the later notification upon pending proceedings in *Gyan Traders Ltd. v. Mahendra Kumar Agarwal [2024 SCC OnLine Cal 12098]*.

59. The contention that the decree predated the 20th March 2020 notification does not by itself conclude the matter. The statutory jurisdiction concerns the proceeding pending before the Court and the specified value prescribed for the commercial jurisdiction. *Gyan Traders* (supra) demonstrates that a pending proceeding can enter the commercial

jurisdictional regime when the statutory pecuniary threshold is subsequently altered.

60. The date of the decree therefore cannot, by itself, furnish a permanent exclusion from the commercial jurisdiction of a proceeding which otherwise satisfies the statutory requirements.

61. The judgment debtors have also referred to Rule 5 of the High Court at Calcutta Commercial Courts Practice Directions, 2021, concerning the movement of records of proceedings relating to commercial disputes.

62. A Practice Direction cannot enlarge jurisdiction beyond the authority conferred by the Commercial Courts Act, 2015. Its relevance lies in prescribing the procedural mechanism by which proceedings falling within the statutory regime are identified and placed before the Commercial Division.

63. The jurisdictional conclusion in the present case rests upon Sections 2 and 15 of the said Act.

64. The Court is therefore required to consider the matter in its complete legal sequence rather than by isolating the stage of execution from the transaction which preceded it.

65. The original transaction was not a solitary hand-loan advanced to an individual for a private purpose. Three advances aggregating Rs.36 lakh were made to a partnership concern. Interest was stipulated. Financial assistance to the business of the firm constituted the pleaded purpose. Receipts, account confirmation, bank records, correspondence, cheques, dishonour memoranda and demand notices accompanied the transaction.

66. The reference to acquaintance cannot override those circumstances. A social acquaintance is not a substitute for proof of friendship. A label of "friendly loan" cannot displace the legal significance of the transaction's purpose, its parties, its financial terms and its documentary record.

67. The principles in *Ladymoon Towers* (supra) and *Puja Lohia* (supra) remain applicable to cases possessing their factual features. The present record does not possess those features. *Venkatesh Vincom* (supra) is closer to the present factual matrix because the Court there attached significance to the use of funds by a partnership concern, receipts and other records evidencing the financial transaction.

68. *Strong Towers* (supra) likewise reinforces the need to examine the commercial character of a money transaction through the documentary and financial material rather than through the mere absence of a formal lending business.

69. The compromise dated 26th September 2016 did not introduce a new dispute. It resolved the existing monetary controversy. The undertaking dated 28th September 2016 and decree dated 29th September 2016 followed from that settlement. The execution proceeding seeks enforcement of the obligations contained in that decree.

70. The commercial character of the antecedent dispute therefore remains legally relevant to the jurisdictional enquiry. The compromise brought the controversy to a consensual conclusion; it did not destroy the relationship between the decree and the dispute which the decree settled.

71. *India Media Services* (supra) does not lead to a contrary result because the later proceeding in that case arose from a subsequent transaction and

a new grievance. The present proceeding arises directly from the decree itself.

72. *South Eastern Coalfields* (supra), *Beta Exim Logistics* (supra) and the authorities adopting a restrictive construction of Section 15 of the said Act have been considered. The contrary line represented by *Obulapuram Mining Company* (supra) demonstrates the expression "application" cannot be treated as having only one judicially accepted meaning in the context of execution.

73. For an ordinary compromise decree passed by this Court upon settlement of a monetary controversy having commercial attributes, the broader construction is more consistent with the words "relating to a commercial dispute" in Section 15(1) of the said Act, particularly where the execution proceeding seeks enforcement of the very obligations embodied in the decree.

74. The specified value presently disclosed is Rs.39,59,189/-, which exceeds the applicable threshold of Rs.10 lakh.

75. The cumulative circumstances consequently establish both limbs of the jurisdictional enquiry: the proceeding relates to a commercial dispute and the dispute is of the specified value.

76. E.C. No. 223 of 2017 is held to be a proceeding relating to a commercial dispute of the specified value within the meaning of the Commercial Courts Act, 2015.

77. G.A. No. 2 of 2026 is accordingly allowed to the extent that E.C. No. 223 of 2017 shall stand transferred to the Commercial Division of this Court.

78. The Registry shall place the records of E.C. No. 223 of 2017 before the appropriate Bench of the Commercial Division accordingly.

79. The questions relating to the death of the original decree holder, the claim of any person to represent her estate, substitution, representation and the maintainability of the execution proceeding on such grounds are kept open for adjudication by the Court dealing with the execution proceeding. No finding contained in this order shall be treated as an adjudication upon such questions.

80. G.A. No. 2 of 2026 is disposed of in the above terms.

81. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(ANANYA BANDYOPADHYAY, J.)

PA