

Money Suit No.229 of 2024(CNR WBCC01-003635-2024)

Present:- Sri S. Dasgupta, Judge, (J.O. Code WB01246)

Order no. 02 / dt. 15.07.2024

Record is put up today on the prayer of the plaintiff/petitioner.

The plaintiff has filed an application under Order 39 Rule 1 & 2 read with section 151 of C.P.C.

From the office report it appears that no caveat has been filed till this date.

Ld. Advocate for the plaintiff moved the ad-interim injunction prayer.

Perused the injunction application, its enclosures and the case record.

It is stated that the plaintiff on the request of the defendant/respondent, sold and delivered diverse goods to the defendant of a total value of Rs.1,34,72,845/- which were received and accepted without any objection and the three copies of the invoices were made against the sale of the said goods.

It is stated that the defendant had made part payment in respect of the said invoices to the plaintiff, which the plaintiff had adjusted in the accounts maintained between the parties and that a sum of Rs.5,13,185/- as on date remains due and payable by the defendant to the plaintiff, upon adjustments of the aforesaid sums received by the plaintiff.

It is stated that despite demand, the defendant has failed to make payment of the amounts due. Thereafter, the plaintiff issued a legal notice dated 11.04.2022 through its Advocates to the defendant demanding Rs.5,13,185/- but the defendant did not respond to the said letter. Thereafter, the defendant presented the plaintiff with a cheque dated 26.05.2022 being No. 001534, amounting to Rs.5,13,185/-, but the said cheque was not cleared and was returned by the Banker of the plaintiff to the plaintiff with the remark "Payment Stopped by Drawer" by a return memo dated 30.05.2022.

It is stated that the plaintiff issued a further notice demanding a sum of Rs.5,13,185/- from the defendant by a legal notice dated 08.06.2022. It is stated that the plaintiff has recently come to learn that after receiving the lawyer's notice, the defendant is secreting its assets away to render the claims of the plaintiff and other creditors nugatory.

Having heard the Ld. Advocate for the plaintiff and taking into account the entire facts and circumstances into consideration, this Court has come to the conclusion that there is no urgency, that the plaintiff has not been able to make out a prima facie case in order to get an ad-interim order of injunction as prayed for and that it would not be appropriate to pass any order in this case without hearing the other side. Besides, no document has been filed by the plaintiff showing that the

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defendant is secreting its assets away to render the claims of the plaintiff and other creditors nugatory as claimed by the plaintiff. Only vague and speculative apprehensions have been made by the plaintiff regarding what the defendant might do if no order as prayed for by the plaintiff, is granted.

Accordingly, the plaintiff's prayer for ad-interim injunction is considered and refused.

Issue notice upon the defendant.

Requisites be filed at once.

Fix 07.10.2024 for S/R, A/D and appearance.

D/c by me

Sd/-

Judge, Bench-III,
City Civil Court, Calcutta.

Sd/-

Judge, Bench-III,
City Civil Court, Calcutta.