

Commercial Suit No. 01 of 2026

Order No.05

Date:24-02-2026

Today is fixed for hearing of petition under O7 R10 CPC preferred by the principal defendants in the instant suit dated 29.01.2026.

Plaintiff takes step and is further duly represented by its Ld. Counsel.

Principal defendants take steps and are further duly represented by their Ld. Counsel.

Pro forma defendant is also present. Ld. Counsel for the pro forma defendant files a petition praying for time to file written objection against the plaint. Ld. Counsel further clarifies that the pro forma defendant has no objection if today's hearing (of O7 R10 petition) is proceeded with as it does not want to prefer any objection against the said petition.

Prayer for time to file WS is considered and allowed.

Record is taken up for hearing of O7 R10 petition dated 29.01.2026 preferred by the principal defendants.

Heard Ld. Counsels for both the plaintiff & the principal defendants.

It is the clear contention of Ld. Counsel for the principal defendants that instant court has no jurisdiction to entertain instant suit as it is 'not of commercial nature' within the parameter set by section 2(1)©(vii) of the CCA, 2015 being based on and arising out of an unregistered piece of document which is not an "agreement" within the meaning of the term under section 2(1)©(vii) of the CCA, 2015.

In support of his prayer Ld. Counsel for the principal defendants place reliance on the following citation: **Paul Rubber Industries Private Limited v/s Amit Chand Mitra & Others AIR 2023 SC 4658 dated 25.09.2023.**

On the other hand, it is the clear contention of Ld. Counsel for the sole plaintiff that O7 R10 CPC has no application in the instant matter primarily owing to the following two reasons:

- A. That instant court, by virtue of its own first order, has already considered the aspect of commercial nature of the dispute and has arrived at a conclusion in favour of the sole plaintiff admitting the suit in the process; and
- B. The term "agreement" within its meaning under section 2(1)©(vii) of the CCA, 2015 not only includes a registered instrument but also unregistered instrument and oral agreements.

In support of its contention Ld. Counsel for the plaintiff places reliance on the following decisions: **Paul Rubber Industries Private Limited v/s Amit Chand Mitra & Others + Sevoke Properties Limited v/s West Bengal State Electricity Company Limited + Kartar Singh Kochhar v/s ICICI Bank Limited.**

At this stage of the hearing Ld. Counsel for the principal defendants is requested to satisfy this court on the point as to how the principal defendants proposes that a suit should cease to be one of commercial nature merely by virtue of the fact that the dispute concerned finds its roots in an unregistered piece of document that is not admissible in evidence.

Ld. Counsel for the principal defendants orally prays for time to satisfy the court on the point raised.

Prayer is considered and allowed.

Fix **25.02.2026** for satisfaction on point of law and passing of necessary order disposing of the petition under O7 R10 CPC dated 29.01.2026.

Sd/-

(Subhadeep Ray)

Judge, Commercial Court, Siliguri

J.O. Code WB00949