

T.S. - 05/2023 (CC)

Present :: Neyaz Alam
Judge Commercial Court at Rajarhat
North 24 Parganas
CNR:WBNP19-000053-2023
J.O Code – WB01398

09
12.10.2023

Plaintiff files hazira along with an application supported by affidavit praying for extension of ad-interim order.

Defendant files hazira.

Plaintiff filed the suit for damages, permanent injunction and declaration.

Defendant appeared and contested the suit by filing written statement. In the suit plaintiff filed an application under Order 1 Rule 10 read with Order VI Rule 17 CPC which is taken up for hearing.

Heard and considered the submissions of the Ld. Counsels.

It transpires that the petitioner/plaintiff is a body corporate duly registered under the provisions of Companies Act, 1956 is engaged in the business of offering end to end Heating, Ventilation, Air Conditioning and Mechanical Electrical and Plumbing solutions and services for a wide spectrum of clientèle and the respondent is a company and a PAN India construction company in the field of infrastructure works.

The respondent was awarded construction works of HSER Campus at Berhampur, Odisha vide Agreement No. 01/EE CUM SM/IPD/2019-20 DATE4D 03.09.2019 by the CPWD.

The plaintiff happens to be the sub-contractor and Notice of Award NoA/NKG/BERHAMPUR/MEP//2020/60 dt. 30th September, 2020 was execute4d between the petitioner and respondent and work was effected thereto.

It is alleged that the proposed party CPWD under Ministry of Housing and Urban Affairs was the employer who invited NIT and the defendant No. 1 was successful bidder who subcontracted the work to the petitioner. It is further alleged the plaintiff company provided such chillers only after receiving the assurance of CPWD .The CPWD , therefore, has a concurrent obligation along with the present respondent/defendant company to make payment to the plaintiff company with regard to such chillers. The CPWD has failed to make such payment to the plaintiff company and the cause of action with regard to the same has no divergence from the one presented before the Ld. Court in the instant suit. The CPWD being the main principal

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of defendant company had given assurance that chillers with an invoice value of Rs. 4,40,14,123/- were delivered by the plaintiff company to the defendant company and the CPWD, is a party who is required to be added for proper adjudication of the disputes.

On the other hand, defendant did not raise substantial objection and also did not file any written objection.

This court is of the opinion the addition of the proposed party is essential being important stake holder for fair and effectual adjudication of the suit and further amendment sought for are formal in nature and it will not change nature and character of the suit.

Hence, it is

ORDERED

“the application under Order 1 Rule 10 read with Order VI Rule 17 CPC dt. 12.09.2023 stands allowed on contest without cost”.

Fix **29.11.2023** filing amended copy of the plaint and SR & AD.

Let the ad-interim order be extended till the next date.

Sd/- Neyaz Alam

Judge

Commercial Court at Rajarhat

North 24 Parganas