

Present: Sri Utpal Misra (JO Code:WB00659)
Judge, Commercial Court at Alipore
Money Suit No. 14 of 2019
CNR No. WBSP18-000028-2019

Order No. 69

Date: 23.06.2023

In the matter of:

Suit for recovery of money along with interest valued at Rs. 1,08,30,783/-.

AND

In the matter of:

M/S C.R.C. Exports Pvt. Ltd.

Vs.

In the matter of:

**M/S MGA Realtors Pvt. Ltd. and
3 Ors.**

Order

Today is fixed for hearing of the application being I.A. No. 05 of 2021 and also for filing written objection against the application being I.A. No. 10 of 2023, if any.

Fresh vakalatnama along with written objection against the I.A. No. 10 of 2023 is filed by the Ld. Advocate appearing behalf of the Defendant no. 3.

Defendant no. 1 does not take step and none appears on behalf of the Defendant no. 1 in spite of repeated call.

Defendant no. 4 files hazira.

So, with the consent of the Ld. Counsel appearing for the Plaintiff and Defendant no. 3 the I.A. no. 10 of 2023 filed by the Plaintiff under Order VI Rule 17 read with Section 151 of the CPC is taken up for hearing.

1. Ld. Lawyer for the Plaintiff submits before this Court that the instant suit is a suit for recovery of money and damages valued at Rs. 1,08,30,783/- plus interest.
2. He further submits that the suit is pending before this Learned Court for adjudication, and is fixed for hearing on 03.05.2023. Although the issues have been framed by this Learned Court, on 11.02.2021, the trial of the instant Suit is yet to commence.
3. The abovenamed Defendant nos. 1, 3 and 4 are contesting the instant Suit by filing their respective Written Statements, the contents whereof are denied and disputed by the Plaintiff/Petitioner, since the same are false, self-contradictory and frivolous.
4. At all the material point of time, the plaintiff was under the impression that, all the facts regarding the title of the land being premises no. 3887, Prantick Pally (formerly numbered as I-1/4, Hatisur, Kasba, Kolkata), KMC Ward No. 107, Br. XII, Kolkata - 700107, P.S. Kasba Thana, on which a G+4 building is standing (hereinafter referred to as the "said premises"), were correctly laid down in the Complaint, filed herein. However, during the hearing of an interlocutory application being I.A. No. 04 of 2021, and thereafter during the course of conferences between the Learned Advocates of the plaintiff/petitioner, it appeared that, due to inadvertence, in Paragraph 3 of the complaint, it has been mistakenly pleaded that the plaintiff is the absolute owner of the said premises, whereas the plaintiff is a long-term lease holder in respect of the said premises, for a period of 30 (thirty) years, with an option to renew thereafter. The transfer document has been stamped as a Conveyance, which is otherwise can be

construed to be as ownership thereof. It further appeared that in paragraph 16 serial no. (d) of the plaint, the amount paid by the plaintiff vide cheque no. 196679 on 01.04.2015 has been inadvertently mentioned as ₹ 5,00,000/-, whereas the amount paid by the plaintiff vice the said cheque no. was ₹ 2,00,000/-. In order to keep the records intact, it is also pertinent to record herein that, the registered office of the plaintiff has subsequently been changed from what has been pleaded in the cause title of the plaint, and the new registered office of the plaintiff is Premise No. 388, Prantik Pally, Ward No. 107, Borough No XII, P.S. Kasba, Kolkata, West Bengal, India – 700107. Such change took place on 1st March 2018. The Petitioner therefore prays for correction of the aforesaid clerical and/or typographical errors, in the plaint, by way of amendment of the plaint. A copy of Form No. INC-22 together with Receipt dated 03/05/2018 issued by the Ministry of Corporate Affairs, reflecting the new registered address of the plaintiff is annexed hereto marked with letter “A”.

5. According to the Ld. Advocate for the Plaintiff, it is clear that the proposed amendments are formal in nature and will not change the nature and character of the instant suit nor will it take away any right to defence from the Defendants above-named and cause of action as pleaded in the original plaint would remain same and if the instant application be allowed then there will be no harm to the contending Defendants who are contesting the instant suit.
6. On the other hand Ld. Lawyer for the Defendant no. 3 submits that the proposed amendments are not in formal in nature and it will change the

nature and character of the instant suit. So, he prays for rejection of the instant application.

7. Seen the I.A. no. 10 of 2023 as well as the written objection filed by the Defendant no. 3 and considered.
8. Having heard the submissions advanced by both sides and also on perusal of the material on record, it appears that the proposed amendments are formal in nature and the same will not change the nature and character of the instant suit and if the same be allowed then no harm will be caused to the contesting Defendants.
9. So, considering all, the instant application being I.A. No. 10 of 2023 is hereby allowed for the ends of justice and the I.A. No. 10 of 2023 is disposed of accordingly.

D.A. to do the needful. Amend the suit register and that plaint accordingly.

Plaintiff is directed to file amended copy of the plaint and the contesting Defendants are also allowed to file additional written statement, if any, on the next date as fixed hereunder.

Fix the matter on 11.07.2023 at 11.00 a.m. for further order.

Both the parties are to act on the basis of the downloaded copy of the Order-sheet from the Web site/E-courts-app.

Dictated and corrected by me,

Sd/-

Judge, Commercial Court at Alipore,
for South 24 Parganas, Purba Midnapore,
Paschim Midnapore & Jhargram

Sd/-

Judge, Commercial Court at Alipore,
for South 24 Parganas, Purba Midnapore,
Paschim Midnapore & Jhargram