

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

**Order No.** 75

**Date:** 03.02.2024

**In the matter of:**

Suit for recovery of Money  
valued at Rs. 1,08,30,783/-  
plus interest.

**AND**

**In the matter of:**

**M/s. C.R.C. Exports Pvt. Ltd.**

**Vs.**

**M/s. MGA Realtors Pvt. Ltd.  
and 03 Ors.**

## **Order**

Today is fixed for hearing of the application being I.A. No. 05 of 2021.

Both parties have their respective haziras.

Defendant no. 3 files an application under Order 1 Rule 10 of CPC.  
copy served.

Let the same be registered as **I.A. No. 11 of 2024.**

Plaintiff also files written notes of argument in respect of I.A. No. 05 of 2021.

The record is taken up for hearing of the application being I.A. No. 05 of 2021 filed by the plaintiff/petitioner under Order IX Rules 3 and 5 read with Section 151 of CPC.

### **I.A. No. 05 of 2021**

According to the plaintiff/petitioner the defendant nos. 1 and 3 filed their written statement on 4<sup>th</sup> November, 2019 and thereafter, filed an counter-claim against the instant suit on 6<sup>th</sup> January, 2020 and the plaintiff sought for liberty and filed the written statement against the counter-claim on 27<sup>th</sup> January, 2020.

During pendency of the instant suit plaintiff/petitioner here in compliance of the Order XI Rule 5 have served a notice upon the defendants

no. 1 and 3 categorically requesting them to supply to various documents in support of their counter-claim. But the defendant has miserably failed to put forward any document in support of his counter-claim and hence the same be struck down in limine with costs.

According to plaintiff/petitioner adverse inference against the defendants no. 1 and 3 may be drawn for refusal to produce the documents as called for.

At the time of hearing of the instant application Ld. Lawyer for the plaintiff/petitioner submits before this Court that in paragraph no. 6 of their application they have prepared a chart of those documents which were not produced by the defendant in support of his counter-claim and he specifically mentions that serial no. 12 i.e. the account statement of MGA Realtors Private Limited of IDBI Bank, Gariahat Branch being account No. 086102000014766 for the period 28/10/2010 to 18/05/2016 has not been produced and the defendant be once again directed to produce the same.

Ld. Lawyer for the defendant readily agrees to supply the account statement supra on the next date.

Therefore, considering that aspect the instant application is, thus, accordingly be disposed of with a direction upon the defendant to supply the account statement of MGA Realtors Private Limited of IDBI Bank, Gariahat Branch being account No. 086102000014766 for the period 28/10/2010 to 18/05/2016 on the next date fixed hereunder.

Fix the matter on **17.02.2024 at 11:30 a.m.** for hearing of the application being I.A. No. 11 of 2024, in the meantime, plaintiff is directed to file written objection in respect of I.A. No. 11 of 2024, if any.

Parties to act on the basis of the downloaded copy of this Order.

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