

Present: Smt. Suparna Ray (JO Code: WB00711)
Judge, Commercial Court at Alipore
Money Suit 06 of 2023
Renumbered as MS (Com) 92 of 2023
CNR No. WBSP18-000037-2023

Order no. 19
19.08.2025

In the matter of :
Suit Valued at Rs.64,72,840/-
And
In the matter of :
Pawan Kumar Agrawal.
Vs.
Mukherjee Enterprise.

ORDERED

Today is fixed for hearing of the application being I.A No. 01/2025.

Plaintiff files hazira through Ld. Advocate.

Ld. Advocate of the plaintiff is present.

The application being I.A No. 01/2025 is taken up for hearing.

It appears that the instant suit has already been fixed for ex parte hearing against the defendant vide order no. 5 dated 13.07.2023.

I heard Ld. Advocate on behalf of the plaintiff.

I perused the instant application. This application has been filed on behalf of the plaintiff under Order VI Rule 17 read with Section 151 of CPC with the prayer to amend the plaint as per schedule of the amendment annexed as Annexure-J with this application.

Perused the instant application. In the instant application it is submitted that the plaintiff instituted the instant Money Suit before this court on 21.03.2023 against the defendant and serve the notice upon the defendant requiring their appearance. Despite the proper service, the defendant fails to appear before this court and, thereafter, the suit is posted as non defended suit. However, after filing the present suit, the defendant issued two cheques - one drawn on Axis Bank bearing Cheque No. 557556 dated 14.06.2024, for a sum of Rs.2,50,000/- and second one drawn on Samata Co-operative

Development Bank bearing Cheque No. 001009 dated 14.06.2024 in favour of the plaintiff in lieu of the claim being the subject matter of the instant suit. In addition to the aforementioned cheques, the defendant also transferred two used transit mixers, having registration Nos. WB19F3511 and WB19F3506 valued approximately at Rs.12,00,000/- as part payment towards the plaintiff's claim. It is submitted that in part discharge of his admitted liability, the respondent had forwarded two Cheques bearing No. 557566 & 001009 dated 14.06.2024 aggregating value of Rs. 3,00,000/- and has also provided 2(two) used transit mixers reasonably assessed and valued at Rs.12,00,000/-.In the aforesaid facts and circumstances, the plaintiff prays leave to amend the claim amount of the instant suit from Rs.64,72,840/- to Rs.49,72,840/- after appropriating and adjusting an aggregate sum of Rs.15,00,000/-received by the plaintiff in a manner stated in the petition. It is stated that the schedule showing the proposed amendment is annexed with the application and for proper adjudication of the dispute, the proposed amendment is required to be allowed.

I carefully considered the instant application and other materials on record.

Considering the facts and circumstances, I am of the view that the proposed amendment, as prayed by the plaintiff, is necessary to be allowed for proper adjudication of the dispute between the parties.

Hence, at this stage, I am inclined to allow the prayer of the amendment of the plaintiff as prayed of the instant application being I.A No. 01/2025. Let the plaint be amended as per of the prayer of the plaintiff mentioned in the schedule of the instant application.

*Plaintiff to file amended plaint by **19.09.2025 at 10:45 a.m.***

*The application being **I.A. No.01/2025** is thus **disposed of** on *exparte*.*

***Todate** for acceptance of the amended copy of the plaint and for further order.*

Parties to act on the basis of the downloaded copy of the ordersheet from the Web-site /Ecourts-app.

Dictated & corrected by me,

Sd/-

*Judge, Commercial Court at Alipore
For districts of South 24 Parganas, Purba Medinipur,
Paschim Medinipur & Jhargram*

Sd/-

*Judge, Commercial Court at Alipore
For districts of South 24 Parganas, Purba Medinipur,
Paschim Medinipur & Jhargram*