

Present: Smt. Suparna Ray (JO Code:WB00711)
Judge, Commercial Court at Alipore
Title Suit 04 of 2023
Renumbered as TS (Com) 48 of 2023
CNR No. WBSP18-000041-2023

Order No.66

Date: 11.08.2025

In the matter of:

Suit for recovery of possession and mesne profit valued at Rs. 171,80,41,276/- and for injunction at Rs. 100/-.

AND

In the matter of:

Mani Square Limited.

Vs.

Shri Subhash Kumar and 04 Ors.

Order

Today is fixed for hearing of I.A. No. 28 of 2025.

It appears from the record that the contesting defendants have also been directed to submit the status report in respect of A.L.P. No. 10 of 2025 pending before the Hon'ble High Court at Calcutta within today.

Plaintiff files hazira.

Defendant nos. 2 to 6 file a petition praying for time on the ground of pendency of the aforesaid A.L.P. No. 10 of 2025 before the Hon'ble High Court at Calcutta. In the said petition, the said defendants have averred that the defendants filed the A.L.P. No. 10 of 2025 before the Hon'ble High Court at Calcutta on 04.08.2025 and the concerned Bench of the Hon'ble High Court at Calcutta having jurisdiction to hear the said petition takes up original side matter only on first half on Wednesday. Therefore, the said petition is due to appear before the concerned Bench of the Hon'ble High Court at Calcutta on 13.08.2025 (Wednesday). So, on the basis of that the instant matter pending before this Court should be adjourned.

Plaintiff also files a petition along with the annexure therewith.

In the said petition, the plaintiff has vehemently objected to the prayer for adjournment as prayed by the said defendant nos. 2 to 6.

Plaintiff's contention is that no order of stay has yet been passed by the Hon'ble High Court in respect of the said A.L.P. and as such, the plaintiff is ready and willing to proceed with the matter and is prepared to continue with the hearing of I.A. No. 28 of 2025.

Ld. Advocate appearing for the defendant nos. 2 to 6 has resorted to the statements made in the said adjournment petition and also placed a decision of the Hon'ble High Court of Chhattisgarh reported in *(2009) SCC Online Chh 360* by way of firisty. Ld. Advocate for the said defendants has also filed an Order dated 01.07.2025 passed by the Hon'ble High Court at Calcutta in respect of C.O. 2169 of 2025 and the determination list of the Hon'ble High Court at Calcutta for the period of 11.08.2025 to 14.08.2025 by way of firisty.

On the contrary, Ld. Advocate appearing for the plaintiff has submitted that the said defendants have been intentionally sitting idle on the aforesaid issue and only to procrastinate the instant proceeding before this Court are finding ploy one after another. Therefore, in respect of such stance of the said defendants, this Court ought to impose a heavy cost upon the said defendants and further a peremptory direction be made to the said defendants otherwise plaintiff shall suffer immense loss and injury.

This Court heard the both sides and also perused the materials on records.

It is pertinent to state that by an Order dated 27.03.2025 while adjudicating an A.L.P. No. 02 of 2025 the Hon'ble High Court at Calcutta has been pleased to direct this Court to dispose of the instant suit along with other corresponding suit being registered as T.S (Com) 04 of 2025 within a period of six months. The niche averments of the said Order dated 27.03.2025 is as follows: *".....the Commercial Courts at Alipore is directed to hear the Commercial Suit being No. 48 of 2023 along with Title Suit No. 469 of 2023 transferred from the Court of learned 4th Civil Judge (Senior Division)*

at Alipore, by making all endeavour to conduct day to day hearing without granting unnecessary adjournments, and dispose of the two suits to be heard analogously, preferably within a period of six months from the date of transfer of records as directed”.

This Court upon bound by the aforesaid directive of the Hon’ble Court has been giving dates from time to time so as to dispose of the two suits aforesaid within six months preferably.

Whereas, due to such prayer for adjournment as prayed for this Court has granted adjournment to the parties respectively.

More so, it is to be further stated that till date there is no stay has yet been obtained by the defendant nos. 2 to 6 on the proceeding of the instant suit before this Court.

However, upon consideration of the aforesaid ground as surfaced by the defendant nos. 2 to 6 i.e. the pendency of A.L.P. No. 10 of 2025 before the Hon’ble High Court at Calcutta, this Court opines to grant an adjournment for today for the ends of justice.

However, the defendant nos. 2 to 6 are hereby directed to submit a status report before this Court intimating whether any order of stay is made by the Hon’ble High Court upon this Court in respect of further proceeding with the instant suit on the next day as fixed hereunder otherwise on the said day this Court will be in a position to hear the application being I.A. No. 28 of 2025.

Fix the matter on **25.08.2025 from 03:30 p.m. to 04:00 p.m.** for hearing of I.A. No. 28 of 2025.

It appears that in the Order no. 65 dated 04.08.2025 an inadvertent typographical error crept in 13th line as the number of A.L.P. pending before the Hon’ble High Court was wrongly typed as “A.L.P. No. 10 of 2015” instead of “A.L.P. No. 10 of 2025”. Such inadvertent typographical mistake is hereby corrected.

Parties to act on the basis of the downloaded copy of the order sheet from the website/E-court 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