

Present: Smt. Suparna Ray (JO Code:WB00711)
Judge, Commercial Court at Alipore
Money Suit 33/2019
Renumbered as MS (Com) 13 of 2019
CNR No. WBSP18-000088-2019

Order No. 79

Date: 25.09.2024

In the matter of:

Recovery of Money valued at
Rs. 18,05,85,144/- .

AND

In the matter of:

Intellisys Technologies &
Research Pvt. Ltd.

Vs.

Techno Teaching Info
Solutions Pvt. Ltd.

Order

Today is fixed for hearing of the application being I.A. no. 04 of 2024.

Both sides file their respective haziras.

Heard the Ld. Counsels for the both sides in full.

Now, the instant matter is taken up for hearing.

I.A. No. 04 of 2024

1. The captioned application has been filed by the defendant resorting to Order VI Rule 17 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'Code') for amendment of the written statement along with counter claim.

2. As it appears from the record that, the instant suit was filed by the plaintiff against the answering defendant for recovery of money. The defendant herein has appeared in the said case and filed its written statement along with the counter claim against the plaint pertaining to the instant suit. Thereafter, the plaintiff has also filed its written statement to the said counter claim of the defendant.

3. As per the proceeding as noted in the order-sheet lying with this record, it shows that the parties have already filed their documents in support of their case before this Court to which each party has submitted their acceptance and/or denial in respect of each other's document. Now, the instant matter has been

proceeding and/or pending in the state of recording of the evidence of the defendant before the Ld. Advocate Commissioner as appointed by this Court.

4. The case of the defendant as pleaded in the instant application is that at the time of preparation for adducing evidence, the petitioner/defendant suddenly found out that some mistakes are appearing from the face of its written statement in respect of dates of invoices raised by the petitioner.

5. Ld. Counsel for the defendant/petitioner has submitted before this Court that the correction as aforesaid is required for proper adjudication of the present case as such he has prayed for amendment in the said written statement in respect of Schedule as written in the instant application.

6. The plaintiff/respondent has filed their written objection to the instant application.

7. Ld. Counsel for the plaintiff/respondent has submitted that the defendant has filed the instant application at a very late stage of the proceedings where the defendant had ample time and opportunity to review its written statement in view of Section 16 of the Commercial Courts Act, 2015 read with the amended Order XI of the Code in relation to the said 2015 Act and correct any purported errors. He has further stated that allowing such amendment at this stage would adversely impact the effect of examination of the plaintiff's witness and cross examination which has already been concluded. Furthermore, in view of amended Order XVIII, in relation to said 2015 Act, the defendant/petitioner ought to have sought for withdrawn of affidavits' in view of Order XVIII Rule 4 Sub-rule (1C).

8. Ld. Counsel for the defendant/petitioner has countered that the amendment regarding the certain dates as sought for by the defendant only in the written statement but the documents as annexed therewith have no any such amendment. Therefore, it is just a procedural incompetency on the part of the defendant and the same would not certainly be changed and/or altered any facts which may cause any prejudice to the plaintiff. He has further added that amendment can be filed at any stage of this proceeding. In the instant case certain typographical errors and/or discrepancies have been arisen on the face of the record which should be corrected for the property adjudication of the case. More so, if the amendment is allowed, the plaintiff/respondent will get opportunity to file their respective corrected pleadings to that effect.

9. Heard the Ld. Counsels appearing on behalf of both sides and also perused the instant application and objection thereto.

10. It appears that the corrections as sought for in the instant application are merely a typographical error and/or discrepancy which is required to be rectified so as to proper adjudication of the instant suit. Therefore, the application as filed by the defendant/petitioner is hereby allowed for the ends of justice.

11. The defendant/petitioner is directed to file the amended written statement along with the written statement after serving the same to the plaintiff/respondent on the next date as fixed hereunder.

D.A. to do needful.

Fix the matter on 26.11.2024 at 11:00 a.m. for filing amended written statement along with its counter claim by the defendant.

Parties to act forthwith 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 Medinipur,
Paschim Medinipur & Jhargram

Sd/-

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