

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
[Commercial Division]

IA No. GA-COM/4/2024

In
CS-COM/1/2024

KONSORTIA PROJECT PRIVATE LIMITED
-VS-
MOHIT LAL SEAL AND OTHERS

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: March 12, 2024.

Appearance:

Mr. Chayan Gupta, Adv.
Mr. Rittick Chowdhury, Adv.
Mr. Dwip Raj Basu, Adv.
... for the plaintiff

Mr. Sudarshan Roy, Adv.
Mr. Deep Narayan Mukherjee, Adv.
Mr. Debayan Ghosh, Adv.
Mr. Diptarko Mukherjee, Adv.
...for the defendant nos. 1 to 9

Mr. Abir Lal Chakraborty, Adv.
Mr. Sk. Poddar, Adv.
... for the defendant nos. 10 .

Mr. Shounak Mukhopadhyay, Adv.
Mr. Kallol Saha, Adv.
Mr. Akash Ghosh, Adv.
... for the defendant no.12

The Court: Mr. Chayan Gupta, learned counsel, is appearing for the plaintiff. Mr. Sudarshan Roy, learned counsel, is appearing for the defendant nos. 1 to 9. Mr. Abir Lal Chakraborty, learned counsel, is appearing for the defendant no.10 and Mr. Shounak Mukhopadhyay, learned counsel, is appearing for the defendant no.12.

The plaintiff has filed the present application being GA-COM/4/2024 praying for recalling of the order dated 4th March, 2024

wherein this Court has dismissed GA-COM/1/2024 for non-appearance on behalf of the plaintiff even on second call.

Counsel for the plaintiff submits that as the learned Advocate-on-record of the plaintiff was engaged in Court no.24, he could not reach the Court in time when the matter was called. He further submits that another Advocate was engaged in Court no.41 and thus, none of the Advocates of the plaintiffs was able to appear before this Court and accordingly, this Court has dismissed the application being GA-COM/1/2024 for default.

Counsel for the plaintiff submits that immediately when the plaintiff came to know that this Court has dismissed the application for default, on the very same day i.e. on 4th March, 2024, the plaintiff has filed an application for recalling of the order dated 4th March, 2024 due to which, the plaintiff could not be able to enclose the copy of the order dated 4th March, 2024 and at the time of hearing of the present application, counsel for the plaintiff has handed over the copy of the order dated 4th March, 2024, let the same be kept with the record.

Counsel for the defendants raised objection and submitted that the plaintiff has obtained an order of injunction and after obtaining the order of injunction, the plaintiff is negligent in proceeding with the matter and as such this Court has rightly dismissed the application for default and the plaintiff has not explained as to why the plaintiff has not appeared before this Court when the matter was called for the second time. Counsel for the defendants submits that appearance of the Advocate of the plaintiff in other Court and non-appearance of the

Advocate before this Court is not a good ground for recalling of an order.

Considered the submission made by the counsel for the respective parties. Perused the application.

This court finds that this Court has dismissed the application GA-COM/1/2024 on 4th March, 2024 and on the very same day, the plaintiff has filed the present application for recalling of the order of dismissal and thus, this Court is of the view that one opportunity should be given to the plaintiff to proceed with the application on merit. Accordingly, the order dated 4th March, 2024 is recalled.

GA-COM/1/2024 is restored to its original file. Accordingly, the orders passed in GA-COM/1/2024 are also restored.

GA-COM/4/2024 is disposed of.

(KRISHNA RAO, J.)

RS