

OCD-9

ORDER SHEET

IA No.GA-COM 1 of 2024
In
CS-COM 4 of 2024
IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
(COMMERCIAL DIVISION)

M/S. BAKYASHWRI SEA FOOD PVT. LIMITED
VS.
K. G. INVESTMENT & ORS.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 31st January, 2024.

Mr. A. K. Chatterjee, Sr. Advocate, Mr. Debdatta Sen, Mrs.
Suchishmita Ghosh Chatterjee, Mrs. Ledia Dasgupta, Mr. Malay K. Seal,
Advocates for the plaintiff.

The Court : Affidavit of service filed in Court today is taken on record. It appears from the track reports annexed to the affidavit of service that the defendant nos.1, 3 and 4 have been duly served. The defendant nos.3 and 4 despite service remain unrepresented. Incidentally the defendant nos.3 and 4 are individuals who are the present directors of the defendant no.2 company according to the plaintiff.

In a suit for recovery of money with consequential relief of injunction the plaintiff has taken out this application inter alia for attachment before judgment and injunction against defendant nos.3 and 4. So far as prayer (a) for attachment is concerned, the defendant nos.3 and 4 are required to be given an opportunity to show cause and a final order can only be passed after scrutinising the affidavit through which the defendants/respondents will show cause. So far as the injunction in prayer (b) is concerned it is

apparent that a huge sum of money is said to be due to the plaintiff from the defendants. Despite an opportunity being given to the defendants/respondents to come forth with their version at the ad interim stage, the said defendants chose not to appear. In absence of any contrary version available from the side of the respondents coupled with the fact that the said respondents remain absent despite notice gives rise to a presumption at this stage that the defendant/respondent nos.3 and 4 in order to delay and if possible defeat the claim of the plaintiff are avoiding to be present before the Court.

In the aforesaid facts and circumstances, to prevent further prejudice to the plaintiff when the other parameters i.e. prima facie case and balance of convenience are made out, this Court is inclined to grant a protection to the plaintiff. The view taken by a Division Bench in *Sunil Kakrania & Ors. vs. M/S. Saltee Infrastructure Ltd & Anr.* reported in 2009 (3) CHN 417 has been explained and diluted by another Division Bench in *Harleen Jairath vs. Prabha Surana & Anr.* reported in 2019 (4) CHN 412 and as such in a money claim there is no bar in passing an order of injunction if the parameters as in this case are fulfilled.

The respondent nos.3 and 4 are restrained from dealing with, disposing of, alienating, encumbering or creating any third party right in respect of their immovable properties until 15th March, 2024 or until further orders.

The matter requires to be heard on affidavits for the reasons as aforesaid.

Let affidavit-in-opposition be filed by 16th February, 2024; reply thereto, if any, be filed by 29th February, 2024. Let this matter appear in the monthly list of March, 2024.

The registry is directed to communicate this order to the defendants apart from the plaintiff communicating the same.

(ARINDAM MUKHERJEE, J.)

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