

IN THE HIGH COURT AT CALCUTTA  
ORDINARY ORIGINAL CIVIL JURISDICTION  
[COMMERCIAL DIVISION]

IA No. GA/3/2022  
In  
CS/42/2021  
ZILLION INFRAPROJECTS PRIVATE LIMITED  
VERSUS  
SASHASTRA SEEMA BAL (SSB) AND ANR.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 19<sup>th</sup> July, 2023.

Appearance:

Mr. Dhruva Ghosh, Sr. Adv.

Mr. Soumen Das, Adv.

Mr. Altamash Alim, Adv.

For the plaintiff.

Mr. Rudraman Bhattacharya, Adv.

Ms. Anamika Pandey, Adv.

For the defendant no.1.

Mr. Mohit Gupta, Adv.

Mr. Jit Ray, Adv.

Mr. S.S. Chakraborty, Adv.

For the defendant no.2.

The Court:- This is an application by the plaintiff, inter alia, for examining its first witness, namely, Chandra Shekhar Saxena in commission.

The plaintiff says that the said Mr. Saxena resides at New Delhi which is beyond the local jurisdiction of this Court and as such may not be able to come on regular basis to depose in Court. The said witness, however, be conveniently examined in commission at Kolkata as the dates therein can be

fixed consecutively at an agreed time to complete the same within a time frame. The time frame is also required to be adhered to in view of the stipulation in the Commercial Courts Act, 2015 read with the amended provisions of the Code of Civil Procedure, 1908 made applicable to suits filed in the Commercial Division of this Court.

The plaintiff further submits that the defendant has not given inspection of their documents, only a list of documents has been supplied. The defendants be directed to disclose their documents so that the trial before the Commissioner so to be appointed can be commenced and proceeded.

The defendants, however, have objected to the appointment of a Commissioner to record evidence firstly because they want the examination and cross-examination to take place before the Court and secondly for the cost involved to hold witness action in Commission.

Considering the submissions to be fair, the defendant no.2 is directed to disclose all the documents mentioned in the affidavit of documents filed by the said defendant within ten days from date; inspection of such documents shall be given within a further period of ten days from the date of disclosure.

The plaintiff's first witness, Chandra Shekhar Saxena shall be examined in commission. Mr. Prithviraj Sinha, an Advocate of this Court, is appointed as Commissioner for recording evidence. The Commission will take place in Kolkata. The Commissioner shall fix consecutive dates subject to the convenience of the Commissioner and the Advocates representing the parties so

that the examination and cross-examination of the said witness, Chandra Shekhar Saxena can be concluded at one go and at an early date. The remuneration of the Commissioner, incidental expenses for secretarial support as also the expenses for the venue shall be borne by the plaintiff. The defendants shall only be liable to bear their legal expenses only. The remuneration of the Commissioner is fixed at Rs.17,000/- per sitting. The plaintiff, if necessary, shall make provision for the Commissioner's travel.

The plaintiff shall apply to the Registrar, Original Side of this Court for deputing necessary staff to carry the records of the suit to the venue for Commission and return thereof on the completion of the sitting and the Registrar, Original Side, if so approached shall make necessary arrangements.

The suit being CS No. 42 of 2021 is made returnable on 14<sup>th</sup> September, 2023.

The Commissioner shall file his report on or before 14<sup>th</sup> September, 2023.

IA No. GA 3 of 2022 in CS No. 42 of 2021 is disposed of.

(ARINDAM MUKHERJEE, J.)