

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

IA NO. GA-COM/7/2024
[OLD NO CS/42/2021]
In CS-COM/244/2024

ZILLION INFRAPROJECTS PVT LTD
Vs
SASHASTRA SEEMA BAL (SSB) AND ANR

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : 07TH May, 2024.

Appearance :

Mr. Dhruva Ghosh, Sr. Adv.
Mr. Soumen Das, Adv.
Mr. Altamash Alim, Adv.
...for the plaintiff.

Mr. Rudraman Bhattacharyya, Adv.
Ms. Anamika Pandey, Adv.
...for the defendant No. 1

Mr. Somnath Gangopadhyay, Adv.
Ms. Bishalaxmi Ghosh, Adv.
...for the defendant No. 2

The Court: Mr. Dhruva Ghosh, learned Senior Counsel, is appearing for the plaintiff, Mr. Rudraman Bhattacharyya, learned Counsel, is appearing for the defendant No. 1 and Mr. Somnath Gangopadhyay, learned Counsel, is appearing for the defendant No. 2.

The plaintiff has filed the present application being GA-COM/7/2024 praying for leave to disclose further additional documents.

Counsel for the plaintiff submits that this Court has appointed the Commissioner for examination of the witnesses on commission and at the time of preparing the affidavit of evidence of the plaintiff's witness, the plaintiff found that certain documents which are relevant documents to prove the claim of the plaintiff, were not disclosed at the time of filing of the plaint.

Counsel for the plaintiff submits that the documents which the plaintiff intends to bring on record are not the part of plaint but are of great relevance and required to substantiate the claim of the plaintiff made in the suit.

Counsel for the plaintiff submits that the plaintiff had been admitted into Corporate Insolvency Resolution Process on 24th December, 2019 wherein the erstwhile directors and responsible officers of the plaintiff had lost control over the management of the plaintiff. The Interim Resolution Professional and thereafter the Resolution Professional gained control over the management and the documents pertaining to all the ongoing projects of the plaintiff was not with the plaintiff due to which at the time of filing of the suit, the documents could not be disclosed.

On earlier occasion when the plaintiff intended to disclose the said documents were brought to the notice of this Court and this Court has given liberty to the learned Counsel for the plaintiff to hand over the documents to the Counsel for the defendant No. 2 and the defendant No. 2 was given liberty to take inspection of the said documents and on receipt of the said documents, the defendant No. 2 by a letter dated 10th January, 2024 has not agreed to allow the plaintiff to disclose the said documents, the plaintiff has filed the present application.

Counsel for the defendant raised objection for allowing the plaintiff to disclose the said documents and submitted that the plaintiff has not disclosed the said documents at the time of filing of the suit. Admittedly, the documents which the plaintiff is relying upon are prior to filing of the suit and

the plaintiff has not given any sufficient cause as to why the plaintiff has not disclosed the said documents.

Counsel for the defendants further submits that if at this stage the plaintiff is allowed to file the documents, the defendants will suffer irreparable loss as the defendants will not get any opportunity to deny the said documents as the defendant has already filed written statement.

Heard learned Counsel for the respective parties. Perused the application and documents.

The plaintiff has taken specific ground that in the month of December 24, 2019 the plaintiff had been admitted into Corporate Insolvency Resolution wherein the erstwhile directors of the company and the responsible officers of the plaintiff had lost the control over the management of the plaintiff and the Interim Resolution Professional and thereafter the Resolution Professional gained control over the management and the documents pertaining to all the ongoing projects of the plaintiff due to which the plaintiff could not file the said documents at the time of filing of the suit.

This Court further finds that though the Commissioner was appointed for examination of witness No. 1, the witness has not been examined and thus, this Court finds that if at this stage the plaintiff is allowed to disclose the documents, none of the parties will be prejudiced as the defendants will get opportunity to cross-examine the witness on the documents if the plaintiff relies the said documents at the time of examination of the witness.

In view of above, the plaintiff is allowed to disclose the document as mentioned in paragraph 7 of the present application.

Counsel for the plaintiff submits that already the documents have been handed over to the Counsel for the defendant No. 2, the defendant No. 2 is at liberty to take inspection of the documents within two weeks and the defendants are directed to file their affidavit of admission and denial of the documents within a week thereafter.

Counsel for the respective parties submit that time to file report by the Commissioner is going to be expired and prayed for extension of time to file report by the learned Commissioner.

Considering the submission made by the Counsel for the respective parties, time to complete the examination of the witness by the learned Commissioner is extended for a further period of two weeks after summer vacation.

GA-COM/7/2024 is disposed of.

(KRISHNA RAO, J.)