



OCD-5

ORDER SHEET

CS/11/2018
IA No: GA/3/2019 (Old No. GA/719/2019),
GA/6/2023

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
[COMMERCIAL DIVISION]

SAURABH GUPTA
-VS-
ROYAL SUNDARAM GENERAL INSURANCE COMPANY LIMITED & ANR.

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : May 10, 2023.

Appearance:

Mr. Swarnendu Ghosh, Adv.
Ms. Suchismita Ghosh, Adv.
Mr. Abirlal Ghosh, Adv.
Mr. Moloy Kumar Seal, Adv.
... for the plaintiff

Mr. Avinash Kankani, Adv.
Mr. Shaswat Nayak, Adv.
Mr. Suman Majumder, Adv.
... for the defendant no.1

Mr. Sayantan Bose, Adv.
Ms. Pooja Chakravarti, Adv.
Ms. Radhika Misra, Adv.
Ms. Rashni Deepta Acharya, Adv.
... for the defendant no.2

The Court: Counsel for the respective parties are present.

The plaintiff has filed the instant application praying for discharge of the Commissioner and to allow the plaintiff to continue with the examination of the witness on dock before this Court. Counsel for the plaintiff submits that by an order dated 13th March, 2023 this Court has appointed the Commissioner for examination of the witnesses and also directed the Commissioner to complete the examination of the witnesses of



the plaintiff within a month without giving any unnecessary adjournment taking into consideration that the suit is of commercial in nature and the Commissioner was also directed to file report on 17th April, 2023. Learned counsel for the plaintiff submits that in terms of the order passed by this Court, the Commissioner has started examination of the witness on commission but unfortunately at the time of examination of the plaintiff's witness, the defendant no.2 was raising objections for exhibiting the documents due to which the examination of the plaintiff's witness is being delayed and the plaintiff is suffering financial loss as on each and every date of sitting as the plaintiff is bearing the remuneration of the Commissioner. Learned counsel for the plaintiff has pointed out the objections raised by the defendant no.2 as recorded by the learned Commissioner in the proceeding.

It is found from the record that the learned Commissioner has recorded each and every objections and counter objections of the parties in the proceeding which is one of the reasons for causing delay in completion of the examination of the plaintiff's witness on commission.

This Court finds that it would not be appropriate for this Court at this stage to discharge the Commissioner from recording evidence of the witness on commission and allow the plaintiff's witness to be examined on dock before this Court. This Court finds that the disputes between the parties with regard to recording objections at the time of exhibiting the documents, can be settled only by directing the learned Commissioner not



to record all the objections in detail as the learned Commissioner has done on the previous dates. Learned Commissioner is directed only to record the objections, if raised, by any of the parties, at the time of examination of the witnesses either by noting as 'objected to' or by 'subject to objection'. The objection which has been raised by the parties for exhibiting the documents will be decided by this court at the appropriate stage and as such by this observation, GA/6/20223 is disposed of by directing the Commissioner to expedite the examination of the witnesses on commission and to complete the examination of the witnesses as early as possible within 30th June, 2023 and to file his report on 5th July, 2023.

It is, however, made clear that no allegation has been made by the plaintiff in the instant application against the Commissioner. Since the parties have not used any affidavits and without calling for any affidavits, the application is disposed of, the allegations made in the application are deemed to have been denied.

The Commissioner is directed to make necessary arrangement for fixing the dates for examination of the witnesses on Commission on day to day basis so that the matter can be expedited.

(KRISHNA RAO, J.)