



2026:CHC-OS:345

OCD-8

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

IA NO. GA-COM/7/2024
[OLD NO CS/11/2018]
In CS-COM/91/2024

SAURABH GUPTA
Vs
ROYAL SUNDARAM GENERAL INSURANCE COMPANY LIMITED & ANR

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date: 19th March, 2024.

Appearance:
Mr. Swarnendu Ghosh, Adv.
Mr. A. Ghosh, Adv.
... for the plaintiff.

Mr. Avinash Kankani, Adv.
Ms. Arunima Lala, Adv.
Mr. Suman Majumdar, Adv.
... for the defendant.

The Court : Mr. Ghosh, learned Advocate appears for the plaintiff and Mr. Kankani, learned Advocate appears for the defendant.

The defendant no.1 has filed the present application being GA-COM/7/2024 praying for leave to disclose and rely upon the documents mentioned in paragraph 12 of the present application being annexure 'G' at pages 33 to 39. Counsel for the defendant submits that the claim between the plaintiff and the defendant was settled by executing settlement agreement and even after the settlement, the plaintiff has filed the present suit praying for a decree declaring that the settlement agreement dated 23.06.2017 is void and unenforceable in law. The defendants are contesting the suit by filing written statement. Counsel for the defendant submits that the concerned officer that is



Assistant Manager, Legal namely Mr. Omkar Utture who was dealing with the matter in connection with the present has left the company in the month of August, 2019 and as such there was a gap and lack of communications, several documents could not be traced out. Subsequently defendants traced out the documents in which certain document are also connected with this case. On receipt of the documents, the defendant no.1 has filed the present application. Out of the four documents one document is the xerox copy of the settlement agreement in which the plaintiff by his own pen mentioned "Received one set of original settlement agreement". During the cross-examination of the plaintiff, questions were asked being question nos. 405 and 406 with regard to Non Judicial Bond papers and endorsement made by plaintiff but the plaintiff has given the answer 'I cannot remember'. Counsel for the defendant submits that the two documents are of the plaintiff and as such the plaintiff cannot raise any objection for bringing the said documents on record. Counsel for the defendant submits that the documents which the defendant intend to bring on record has been traced out only in the 1st week of January, 2024 and immediately the defendant has filed the present application for bringing the said document on record. The defendant has relied upon the unreported order passed by this Court in **IA No. GA/9/2023 in CS/141/2019 (Vikram Solar Limited Vs. ECGC Limited)** and submits that in this case also the defendant has shown sufficient cause as to why the defendant has not produced the said document at the time of filing of the written statement and as such the defendants may be allowed to disclose the said documents. He submits that the documents is very much



necessary for adjudication of the suit and if the defendants are not allowed, the defendant will be badly prejudice.

Per contra, learned Counsel for the plaintiff raised objection and submitted that the plaintiff has not denied with regard to the settlement agreement. Only the case of the plaintiff is that signature appearing in the settlement agreement was obtained by mis-representing, by force and being duress and coercion upon the plaintiff and as such the plaintiff has filed the suit for declaring the settlement agreement null and void including the allied prayers. Counsel for the plaintiff submits that as per the case made out by the defendant in the present application the person concerned who was dealing with the matter was left the company in the year 2019 and the plaintiff has filed the suit in the year 2018 and after receipt of the writ of summons, the defendant has filed the written statement taking a specific plea that the plaintiff has executed settlement agreement. After completion of the pleadings and inspection of the documents, this Court has appointed a Commissioner for examination of the witnesses of the parties on commission and accordingly plaintiff has examined one witness on commission and the defendant has cross-examined at length and defendant no.1 had adduced two witnesses and the plaintiff cross-examined at length on commission. Now after examination plaintiff's witness and the defendant no.'s. 1 witnesses the defendant no.1 intent to bring new documents on record. Counsel for the plaintiff submits that this document which the defendant intend to bring on record will not give any new light to the suit either for the benefit of the plaintiff or for the defendant. Only to drag the suit, the defendant has filed the



instant application. Counsel for the plaintiff submits that plaintiff has filed the suit in the Commercial Division and as per the Commercial Courts Act the suit is to be disposed of as early as possible but only to delay the suit, the defendant has filed the instant application.

Heard the learned Counsel for the respective parties, perused the application and the documents which the defendant intent to rely on. The main document which the defendant intends to rely upon is the xerox copy of the settlement agreement on which the plaintiff has endorsed that 'Received one set of original settlement agreement'. The contention of the defendant is that the plaintiff has received the original settlement agreement but has not objected at the time of receiving of the said original document and when the Counsel for the defendant had put the suggestion during the cross-examination being question nos. 405 and 406, the plaintiff has stated that 'he cannot remember'. The defendant has cross-examined the plaintiff at length and the case of the plaintiff is totally based on the settlement agreement. The plaintiff has not denied with regard to the signature appearing in the settlement agreement but only the contention of the plaintiff is that the signature in the settlement agreement was obtained by force, coercion and by mis-representation. The plaintiff has been cross examined at length and completed the cross examination and evidence on the side of the plaintiff is closed. Subsequently defendant no.1 has also examined two witnesses and both witnesses have been cross examined at length. This Court find that the document which the defendant want to bring on record after 6 years from filing of the suit will not serve any purpose as the plaintiff has not



denied his signature in the settlement agreement. Whether the plaintiff has raised objection for receipt of the original agreement or not is the matter of trial. Once the plaintiff has admitted the signature in the settlement agreement and as such again for bringing the xerox copy of the settlement agreement on which the plaintiff has made endorsement in his own hand writing will not serve any purpose.

The document appearing at page no.33 in which it is mentioned that “As requested by M/s. Royal Sundaram for ‘NOC’ from customers for settlement of claim I have received reply from them and submitted to you”. Counsel for the defendant submits that this document shows that the plaintiff was interested for settlement of the claim and accordingly has given the said note. Even though the submission of the defendant is considered, this can be treated one piece of the evidence but again the question is that the plaintiff is not denying of settlement agreement only denying the signatures on the settlement agreement as such this document cannot be said to be the document for proper adjudication of the case. The other two documents are the communications with regard to the claim of the plaintiff with the authorities and this Court finds that the said documents are also not necessary for adjudication of the suit. This Court finds that the defendant no.1 has filed the present application only to fill up the lacuna. This Court also finds that three witnesses have already examined and the suit is at the completion stage, if at this stage the documents were allowed to be brought on record, the same will further delay the proceeding.



Considering the above facts and circumstances, this Court find that the application filed by the defendant no.1 being GA-COM/7/2024 misconceived and accordingly is dismissed.

(KRISHNA RAO, J.)

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