



OCD-14

2026:CHC-OS:345

ORDER SHEET

IA No. GA-COM/8/2024
[Old No. CS/11/2018]
In CS-COM/91/2024

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 : April 23, 2024.

Appearance:

Mr. Swarnendu Ghosh, Adv.
Mrs. Suchismita Ghosh, Adv.
Mr. Abir Lal Ghosh, Adv.
Mr. Moloy Kumar Seal, Adv.
... for the plaintiff

Mr. Avinash Kankani, Adv.
Mrs. Arunima Lala Sengupta, Adv.
Mr. Suman Majumdar, Adv.
... for the defendant no.1

Mr. Sayantan Bose, Adv.
Mr. Sourjya Ganguli, Adv.
Ms. Arti Bhattacharyya, Adv.
Ms. Akshita Bohra, Adv.
...for the defendant no.2

The Court: Mr. Swarnendu Ghosh, learned counsel, is appearing for the plaintiff.

Mr. Avinash Kankani, learned counsel, is appearing for the defendant no.1.

Mr. Sayantan Bose, learned counsel, is appearing for the defendant no.2.



The defendant no.2 has filed an application being GA-COM/8/2024-25:CHC-OS:345

praying for leave to disclose the following documents:

- a. Banking Facility Letter dated August 30, 2018.
- b. Supplemental Hypothecation Agreement dated August 30, 2018.
- c. Letter of lien over fixed deposit/set off dated August 30, 2018.
- d. Letter of negative pledge dated August 30, 2018.
- e. Supplemental Guarantee Agreement dated August 30, 2018.
- f. Supplemental Memorandum of Entry dated September 27, 2018.

Counsel for the defendant no.2 submits that the defendant no.2 has filed the written statement on 1st August, 2018 and the document which the plaintiff intends to bring on record is subsequent to the filing of the written statement. Counsel for the defendant no.2 draws the attention to question nos. 307 and 308 of cross-examination of the plaintiff's witness wherein the defendant no.2 has shown the document for refreshing the memory but the plaintiff's witness has stated that the document is not legible and with regard to the another document in question no. 308 the witness has admitted the said document. The defendant says that the documents which the defendant no.2 intends to bring on record are necessary for proper adjudication of the suit.

Per contra, learned counsel for the plaintiff raised objection and submitted that initially the defendant no.1 had filed an application for bringing certain documents on record but by an order dated 19th March, 2024 this Court has rejected the prayer made by the counsel for the defendant no.1 and subsequent to the rejection of the prayer of the



defendant no.1 now the defendant no.2 has filed the present application in connivance with the defendant no.1 and only to drag the suit. 2026:CHC-OS:345

Counsel for the plaintiff submits that the suit is at the verge of completion of evidence and the defendant no.2 is required to adduce evidence. Counsel for the plaintiff further submits that the plaintiff has admitted the documents and as such there is no necessity to bring the said documents once the documents are admitted.

Heard the learned counsel for the respective parties. perused the materials on record.

Admittedly the written statement was filed by the defendant no.2 on 1st August, 2018 and the documents which the defendant no.2 intends to bring on record are after the filing of the written statement. The plaintiff has admitted the documents but without bringing the said documents on record merely by admission by the plaintiff this Court cannot adjudicate the suit properly without going through the documents.

As regards contention made by the plaintiff that the defendant no.1 has filed a similar application and the same was rejected, this Court has perused the order dated 19th March, 2024 and found that the documents which the defendant no.1 intended to bring on record were not the same which the defendant no.2 now intends to bring on record.

Considering above, this Court finds that the documents were not in possession and custody of the defendant no.2 at the time of filing of the written statement and as such the defendant no.2 should be given one opportunity to bring the said documents on record.

In view of the above, prayer (a) of the application is allowed by allowing the defendant no.2 to disclose the above mentioned documents.



The defendant no.2 is directed to disclose the original documents to the plaintiff within a week from date for inspection and the plaintiff is directed to complete the inspection of the documents within a week thereafter.

On completion of the inspection, the defendant no.2 is directed to file the affidavit-of-documents within a week thereafter.

It is informed by the learned counsel for the parties that the matter is already fixed before the learned Commissioner for examination of defendant no.2 witness and the defendant no.2 has already filed his examination-in-chief on affidavit after serving copy to the learned counsel for the respective parties.

The Commissioner is directed to complete the commission as early as possible within the time as directed by this Court.

Since the plaintiff has not used affidavit-in-opposition to the application filed by the defendant no.2, the allegations made here are deemed not to have been admitted.

IA No. GA-COM/8/2024 is thus disposed of.

(KRISHNA RAO, J.)