

OCD-22

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

IA No.GA-COM/1/2024
CS-COM/668/2024

RAJ KUMAR PODDAR
-VS-
AJAY KUMAR SURANA

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : August 30, 2024.

Appearance:
Mr. Ratul Das, Adv.
Mr. Ashutosh Singh, Adv.
... for the plaintiff

The Court: Mr. Ratul Das, learned counsel, is appearing for the plaintiff.

None appears on behalf of the defendant.

By an order dated 26th April, 2024 this Court has passed an *ad interim* order directing the defendant to maintain an amount of Rs.80,00,000/- either in the account maintained in ICICI Bank, Chowringhee Branch being Account No.594705500197 or Standard Chartered Bank, Shakespeare Sarani Branch being Account No.33705900667 till 25th June, 2024. After the order passed by this Court, the defendant had entered appearance on 25th June, 2024 through the learned Advocate and accordingly as per the prayer of the learned Advocate for the defendant, the copy of the application along with documents was

served to the learned Advocate on record of the defendant and the defendant had taken time to file affidavit in opposition.

This Court directed the defendant to file affidavit in opposition within three weeks, reply within a week thereafter. Subsequently, the matter was fixed on 26th July, 2024 and on that date neither the defendant nor his Advocate appeared in the matter. By an order dated 26th July, 2024 this Court has made it clear that by the date fixed if the defendant fails to file affidavit in opposition, opportunity to file the affidavit in opposition will be closed and the application will be taken up for hearing without the affidavit and the matter is fixed today for hearing. Today also when the matter is taken up for hearing, none appears on behalf of the defendant and no affidavit is filed. Accordingly, this Court has no other option but to take up the matter for hearing without the affidavit and in the absence of the defendant.

Counsel for the plaintiff has handed over a communication dated 2nd May, 2024 issued by the Branch Manager, Standard Chartered Bank wherein it was informed that the defendant is having an amount of Rs.32,04,129.10 in the Account No.594705500197. Counsel for the plaintiff submits that he has not received any information from the ICICI Bank, Chowringhee Branch.

The defendant has not filed any affidavit showing that he has complied with the order passed by this Court or has denied the allegations made by the plaintiff in the application.

The plaintiff has disclosed in the application that there are several criminal cases under Section 138 of the Negotiable Instrument Act against the defendant for dishonour of cheques.

Counsel for the plaintiff has also relied upon the order passed by the Customs, Excise and Service Tax Appellate Tribunal dated 12th October, 2023 wherein the defendant has got an amount of Rs.76 lakhs and odd. Counsel for the plaintiff submits that in terms of the said order the defendant has received the said amount but he fails to maintain the amount of Rs.80 lakhs in the account and prays for an order directing the defendant to furnish security of Rs.80 lakhs.

Considered the submission made by the counsel for the plaintiff. Perused the materials on record.

This Court finds that after the *ad interim* order passed by this Court, counsel for the defendant had appeared and copy of the application along with documents was served. This Court has given opportunity to the defendant to file affidavit but in spite of the opportunity given to the defendant, the defendant fails to file affidavit by denying the allegations made by the plaintiff in the application. The plaintiff has produced the documents from the Standard Chartered Bank wherein it is found that the defendant is maintaining only Rs.32 lakhs and odd amount but there is no details with regard to ICICI Bank, Chowringhee Branch. This Court also finds that the defendant is facing several criminal cases under Section 138 of the Negotiable Instrument Act for dishonour of the cheques.

Considering the above, this Court finds that this is a fit case wherein the defendant can be directed to furnish the security of Rs.80 lakhs.

In view of the above, the defendant is directed to furnish security deposit of an amount of Rs.80 lakhs with the Registrar, Original Side of this Court within two weeks from the date of receipt of the copy of this order. If the defendant secures the said amount with the Registrar, the Registrar, shall keep the said amount in the interest bearing account of any nationalized bank with auto renewal.

Let the matter appear on 20th September, 2024.

Interim order granted earlier is extended till 20th September, 2024 or until further order, whichever is earlier.

(KRISHNA RAO, J.)

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