

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

CS-COM/486/2024
[OLD NO. CS/58/2023]
BRIDGE AND ROOF COMPANY (INDIA) LIMITED
VS
UNION OF INDIA AND ORS

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 25th November, 2024.

Appearance:
Mr. Shiv Shankar Banerjee, Adv.
Ms. Arijita Ghosh, Adv.
Ms. S. N. Ghosh, Adv.
...for the plaintiff

Mr. Indrajit Dasgupta, Adv.
Ms. R. Bhattacharyya, Adv.
...for the defendants

The Court:- Mr. Shiv Shankar Banerjee, learned Advocate appearing for the plaintiff.

Mr. Indrajit Dasgupta, learned Advocate appearing for the defendants.

Counsel for the plaintiff submits that the suit was presented on 11th May, 2023 and immediately the plaintiff has taken steps for issuance of writ of summons.

Counsel for the defendants submit that they have received instructions from the defendants to appear in the matter and the defendants have submitted some documents by a letter dated 26th July, 2023. From the communication dated 26th July, 2023 by the Chief Administrative Officer of the Eastern Railway, Kolkata to the Advocate-on-record of the defendants, it is found that the writ of summons duly served upon the defendants in the month of July, 2023 and on receipt of the writ of summons, the Department has duly forwarded the para-wise reply/comments to the learned Advocate-on-Record but till date written statement is not filed. Order VIII Rule 1 of the

Code of Civil Procedure as amended in terms of the Commercial Courts Act, 2015, reads as follows:-

“Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.”

In the case of SCG Contracts (India) Pvt. Ltd. vs. K. S. Chamankar Infrastructure Pvt. Ltd. & Ors reported at (2019) 12 SCC 210, the Hon'ble Supreme Court has categorically held that after the 120 days, this Court cannot accept the written statement in terms of an order VIII Rule 1 of the Code of Civil Procedure. In the present case, the writ of summons was served upon the defendants in the month of July, 2023 but till date the defendants are not filed the written statement.

Accordingly, CS-COM/486/2024 (Old No. CS/58/2023) be placed in the list of Undefended Suit.

The plaintiff is directed to file Judge's Brief of Documents within two weeks from date after serving the copy to the learned Counsel for the defendants. The plaintiff is also directed to file the affidavit of evidence of the plaintiff's witness within a week thereafter.

List the matter on 2nd January, 2025 for witness action.

(KRISHNA RAO, J.)