

OCD-1

**In the High Court at Calcutta
Commercial Division
Original Side**

**CS-COM/491/2024
[Old No. CS/69/2023]**

USHA MARTIN LIMITED
VS
BALURGHAT TECHNOLOGIES LIMITED

**BEFORE:
The Hon'ble JUSTICE ANIRUDDHA ROY
Date : July 1, 2026.**

Appearance:
Ms. Labanyasree Sinha, Adv.
... for the plaintiff

The Court: The matter has appeared at the instance of the plaintiff under the heading **“To Be Mentioned”**.

Ms. Labanyasree Sinha, learned Advocate appearing for the plaintiff prays for appointment of Commissioner for holding the witness action.

This is an undefended commercial suit. Defendant has not filed its written statement.

Plaintiff has already filed its evidence on affidavit and the documents are also disclosed. Judge's Brief of Documents is also on record.

Learned Advocate for the plaintiff submits that plaintiff may conclude tendering of evidence on affidavit and allied examination in chief by **two sessions**.

The suit being an undefended one, the defendant would have limited right of cross-examination, as indicated in the order dated **February 23, 2026**.

In view of the above, the plaintiff and the learned Commissioner shall serve notice along with a copy of today's order upon the defendant indicating the date, time and venue of the examination in chief of the plaintiff's witness and immediately after the examination in chief is concluded, the defendant would have an opportunity for cross-examination.

Accordingly, the following directions are made:

- a) **Mr. Deepnath Roy Chowdhury, learned Advocate, Bar Library Club, First Floor, a member of the Bar**, is appointed as the Commissioner to hold the commission;
- b) Remuneration of the learned Commissioner shall be **Rs.15,000/-** per session and each session shall continue at least for **two hours**;
- c) Learned Commissioner shall be at liberty to appoint a Stenographer and fix the remuneration reasonably for recording the evidence;

- d) An additional secretarial expenses is fixed for a sum of **Rs.3000/-** per session;
- e) The original records shall be produced before the learned Commissioner under the supervision and custody of an Officer in the Original Side, to be nominated by the Registrar, Original Side;
- f) The entire costs and expenses, as directed herein, shall be borne by the examining party concerned, i.e. the defendant during its cross-examination;
- g) Plaintiff shall take **two sessions** to tender its evidence on affidavit and to conclude the relevant evidence on the same for which the entire costs and expenses for that session shall be paid by the plaintiff. It is needless to mention that the plaintiff's tendering of evidence on affidavit shall be the first session.
- h) During the cross-examination, the entire costs and expenses including remuneration of the learned Commissioner, as directed herein, shall be borne by the defendant.
- i) Learned Commissioner shall commence the commission, positively within **two weeks** from the date of communication of this order, upon notice to the parties.
- j) The commission shall be concluded, positively within **two months** from the date of first sitting of the commission.

After the aforesaid exercise is carried out and in the event, the defendant fail to appear and/or to cross-examine the witness of the plaintiff, then after the examination in chief is concluded, the plaintiff and/or the parties, as the case may be, shall be at liberty to mention this matter for argument, upon notice to each other when the Commissioner shall file his report.

(ANIRUDDHA ROY, J.)

RS