

OCD 5

ORDER SHEET  
AP-COM/585/2025  
IN THE HIGH COURT AT CALCUTTA  
COMMERCIAL DIVISION  
ORIGINAL SIDE

M/S STAR CONSTRUCTION AND ORS.  
VS  
SIMPLEX INFRASTRUCTURES LIMITED

BEFORE:  
The Hon'ble JUSTICE SHAMPA SARKAR  
Date: 20<sup>th</sup> August, 2025.

*Appearance:*  
*Mr. S. Nandy, Adv.*  
*Mr. Somnath Saha, Adv.*  
*...for the petitioner*

*Mr. Ratul Das, Adv.*  
*Mr. Abhishek Banerjee, Adv.*  
*Mr. Proteek Debnath, Adv.*  
*...for the respondent*

The Court:

1. A supplementary affidavit has been filed annexing the bank statements. The petitioner contends that payments were lastly made in December, 2022. Thus, the period of limitation will run from the last date of payment by the respondent.
2. Mr. Das contends that after 2021, no payment had been made and as such, the advantage of Section 18 of the Limitation Act could not be availed of the petitioner. The invocation was in 2025 and the claim was, thus, ex facie barred by limitation.

3. The pleadings in paragraph 10 of the application indicate that the petitioner was engaged as a sub-contractor by the respondent, to carry out certain works under a work order received by the respondent from the State of West Bengal. It has been specifically averred that there was a litigation between the respondent and the principal/owner. Ultimately, the main contract was foreclosed by the respondent sometime in June, 2023. According to the petitioner, the terms and conditions of the work order issued to the petitioner contained a clause which required the petitioner to continue with its part of the project until the said contract between the petitioner and the respondent was either terminated or foreclosed. In this case, there was neither any termination, nor a foreclosure.
4. In my, prima facie, view the issues raised in this application are triable. However, Mr. Das contends that there are adequate documents available with the respondent which should be brought on record to substantiate the point that the petitioner had abandoned the project some time in 2021.
5. Let affidavit-in-opposition be filed within two weeks from date. Affidavit-in-reply thereto, if any, be filed within one week thereafter. Let this matter appear on 16<sup>th</sup> September, 2025 at 10:30 a.m.

(SHAMPA SARKAR, J.)