

OD-17

ORDER SHEET

IA NO:GA/4/2024
CS/187/2017

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

RAPID ROADLINES OF INDIA PVT LTD
VS
BOLLORE LOGISTICS INDIA LTD.

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : March 22, 2024.

Appearance:
Mr. K. C. Garg, Adv.
...For the plaintiff

Mr. Ankan Rai, Adv.
... for the defendant

The Court: Mr. K. C. Garg, learned Counsel, is appearing for the plaintiff and Mr. Ankan Rai, learned Counsel, is appearing for the defendant.

Counsel for the plaintiff has filed an application being GA/4/2024 praying for recalling of the order dated 2nd February, 2024 wherein this Court has dismissed the suit for default for none appearance of the plaintiff on the date fixed.

Counsel for the plaintiff submits that on the date fixed due to some personal difficulty the Counsel for the plaintiff has not appeared before this Court and the learned Counsel for the defendant has misled this Court by making an incorrect submission that the plaintiff has not forwarded the document for inspection of the defendant.

Counsel for the plaintiff has relied upon the communication dated 25th August, 2023 and 31st August, 2023 wherein the plaintiff has disclosed the document to the defendant. Subsequently by a letter dated 4th September, 2023 the defendant has disclosed documents to the plaintiff.

Counsel for the plaintiff submits that the defendant has also filed a counter claim and the order dated 2nd February, 2024 is not recalled and the suit is not restored, the plaintiff will suffer irreparable loss and injury.

Counsel for the defendant raised objection and submitted that in spite of several directions passed by this Court, the plaintiff has not disclosed the documents. The learned Counsel for the defendant submits that in the plaint the plaintiff has mentioned above four documents but has not disclosed the said document along with the plaint.

Counsel for the defendant submits that though after the order passed by this Court, the defendant had several times requested the plaintiff to inspect the document but the plaintiff has not come forward for inspection of the document.

This Court finds that the objection which that the defendant has raised cannot be decided in the present application. In the present application only this Court is required to be seen whether sufficient cause has been shown by the plaintiff for non appearance of the plaintiff before this Court on the date fixed.

This Court is satisfied that the plaintiff has shown sufficient cause for non appearance of the plaintiff on the date fixed and as such without going into further merit of the matter whether the plaintiff has disclosed documents or not or whether the plaintiff has come forward for inspection of

the documents of the defendant, the said matter is to be decided at the proper stage of hearing.

In view of the above, the order dated 2nd February, 2023 is recalled.

CS/187/2017 is restored to its original file.

GA/4/2024 is disposed of.

(KRISHNA RAO, J.)

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