

ORDER SHEET

IA No.GA/5/2024

In

CS/217/2013

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

FRONTLINE CORPORATION LTD
-VS-
PUNJAB AND SIND BANK

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : February 20, 2024.

Appearance:

Mr. Aniruddha Mitra, Adv.

Ms. Nilanjana Adhya, Adv.

Mr. Kaushik Banerjee, Adv.

Ms. Rashmita Sen, Adv.

... for the plaintiff

Ms. Jayati Chowdhury, Adv.

Ms. Sutapa Guha Dutta, Adv.

Ms. Sucheta Mitra, Adv.

Ms. Priya Malakar, Adv.

... for the defendant

The Court: Mr. Aniruddha Mitra, learned counsel, is appearing for the plaintiff. Ms. Jayati Chowdhury, learned counsel, is appearing for the defendant.

The defendant bank has filed an application being GA/5/2024 for rejection of plaint and dismissal of the suit.

Counsel for the plaintiff prays for time to file affidavit in opposition.

Let affidavit in opposition be filed within three weeks. Reply thereto, if any, be filed within three weeks thereafter.

Counsel for the defendant prays for stay of the proceeding of CS/217/2013 till the disposal of the instant application.

Learned counsel for the plaintiff submits that the case is at the stage of evidence and the examination of the plaintiff's witness is over and the examination of the defendant's witness is going on commission. Counsel for the plaintiff has drawn the attention of this Court to the order passed by the Hon'ble Supreme Court on 5th July, 2023 which reads as follows : -

- “1. This is an application for clarification of the order dated 18.04.2023 passed by this Court in Civil Appeal No.2924 of 2023 to the effect that the order passed by this Court on 18.04.2023, referred to above, would not come in the way of deciding the suit filed by the present applicant, on its own merits.
2. The appeal, in which the order was passed by this Court, arose out of interlocutory proceedings and the observations made therein were obviously with regard to the order passed by the Division Bench of the High Court reversing the well reasoned order passed by the learned Single Judge.
3. It is needless to state that the observations made at an interlocutory stage are only for the consideration of the interim injunction and they do not affect the merits of the matter.
4. The application is, accordingly, disposed of.”

Counsel for the plaintiff submits that the case is at the stage of evidence and within a month the evidence will be closed and the matter can be heard on merit. Counsel for the defendant submits that when the Hon'ble Supreme Court has passed the order, the application filed by the defendant being GA/5/2024 was not on record and as such, the order passed by the Hon'ble Supreme Court on 5th July, 2023 cannot be taken

into consideration while considering the prayer of the defendant in the present application. Counsel for the defendant submits that the defendant has filed an application under Order VII, Rule 11 of the CPC for rejection of plaint and it is settled law that application filed by the defendant is required to be disposed of before proceeding for further evidence.

Heard learned counsel for the respective parties.

This Court finds that the suit was filed in the year 2013 and the defendant in their written statement has taken the plea of maintainability of the suit and this Court has already framed issue with regard to the maintainability of the suit as Issue No.1 and the defendant is participating in the trial and the evidence on the side of the plaintiff is closed and the examination of the defendant's witness is going on. This Court does not find any reason to stay the proceeding of CS/217/2013 at this stage as the suit is at the conclusion stage. Accordingly, the prayer for stay of the defendant, is refused.

Let the matter appear on 3rd April, 2024 at 3:45 p.m. for hearing of the application being GA/5/2024.

(KRISHNA RAO, J.)