

OCD-24

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

IA No. GA-COM/1/2024
In CS-COM/770/2024

PCC LOGISTICS PVT LTD
-VS-

M/S SPML INFRA LTD AND ANR

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : September 10, 2024.

Appearance:

Mr. Rupak Ghosh, Adv.

Mr. Ayan Dutta, Adv.

Mr. Dilip Kumar Ghosh, Adv.

...for the plaintiff

The Court: Mr. Rupak Ghosh, learned counsel, is appearing for the plaintiff.

The plaintiff has filed the present application praying for ad interim injunction.

The defendant no.1 has entered into a contract with the defendant no.2 for providing logistic support for its project at Agartala. The defendant no.1 in course of execution of the contract with the defendant no.2, had approached the plaintiff for availing certain logistic services which the plaintiff agreed to provide as per the negotiation between the parties. The defendant no.1 has placed various work orders upon the plaintiff from time to time and the plaintiff on receipt of the work order has duly executed the work order issued by the defendant no.1.

After execution of the work, the plaintiff has raised invoices for payment. The invoices raised by the plaintiff were duly accepted by the defendant no.1 without raising any objection. Accordingly, the defendant no.1 as well as the defendant no.2 has paid part payment to the plaintiff leaving aside the amount to the tune of Rs.47,55,500/-. Subsequently the defendants failed to pay the amount and the plaintiff has made several requests for payment of the amount due and payable to the plaintiff. Finally, on 8th July, 2022, the defendant no.1 has paid a part amount of Rs.6,48,273/- out of the balance outstanding of Rs.47,55,500/-. On receipt of the said part amount, the plaintiff has again requested the defendant no.1 for payment of the balance amount and on 25th March, 2023, the defendant no.2 has paid part amount of Rs.5,00,000/- out of the balance amount.

Counsel for the plaintiff submits that as on date the defendants are liable to pay Rs.36,07,230/- along with interest at the rate of 24% per annum. The plaintiff has made several requests but the defendants have not paid the balance amount of Rs.36,07,230/-.

Counsel for the plaintiff submits that the plaintiff has come to know that on 7th August, 2024, the defendant no.1 has made a publication in the English daily newspaper, namely, The Statesman for sale of the property with respect of the office space available at 22, Camac Street, Kolkata-700016 by referring the said sale notice, the plaintiff submits that the defendant no.1 is trying to sell the properties and wind up the business from Kolkata and if this Court will pass a decree in favour of the plaintiff in future, the said decree will

remain in paper and the plaintiff will not be in a position to execute the said decree.

Counsel for the plaintiff prays for an interim order directing the defendant no.1 to secure an amount of Rs.59,97,875/- till disposal of the present application.

Heard the learned counsel for the plaintiff. Perused the materials on record.

It is found that the defendant no.2 has engaged the defendant no.1 for execution of the work and in the process of execution; the defendant no.1 has engaged the plaintiff. Accordingly, the work awarded to the plaintiff has been executed and raised invoices. Out of the total amount the defendants have paid part payment and balance amount of Rs.36,07,230/- is remain unpaid. The plaintiff has made several requests to the defendants but the defendants failed to pay the said amount.

Counsel for the plaintiff further draws the attention of this Court to the invoices wherein it is mentioned if the defendants fail to pay the bill amount within 30 days, the defendants should be liable to pay 24% interest on the bill amount. Accordingly, the plaintiff has also claimed interest at the rate of 24% on the amount of Rs.36,07,230/-.

The plaintiff has mainly relied upon the sale notice issued by the defendant no.1 which was published in the English daily newspaper on 7th August, 2024 wherein the defendant no.1 is intending to sale the office premises situated at 22, Camac Street. It is found from the record that the office address of the defendant no.1 is also 22, Camac Street and the work

order issued by the defendant no.1 also reveals the same address of the office of the defendant no.1.

Considering the above, this Court finds that the plaintiff has made out a prima facie case and balance of convenience and inconvenience is also in favour of the plaintiff. It is also found that the defendant has made publication for the sale of the office and at this stage if interim order is not passed, the plaintiff will suffer irreparable loss and injury.

In view of the above, the defendant no.1 is restrained from dealing with the account maintaining with the State Bank of India, Udaipur Branch, Agartala, Tripura without keeping aside an amount of Rs.59,97,875/- till 5th November, 2024.

The plaintiff is directed to send the copy of the plaint, application and the documents to the defendants and to file affidavit-of-service by the next date fixed.

List the matter on 5th November, 2024.

(KRISHNA RAO, J.)