

ORDER SHEET

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

IA NO. GA/7/2024
IN CS/247/2021

GEETA GANESH PROMOTERS PVT LTD
VS
VINEET RUIA AND ANR.

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : November 13, 2024.

Appearance:

Mr. Satadeep Bhattacharya, Adv.

Mr. Subhankar Chakraborty, Adv.

Mr. Saptarshi Bhattacharjee, Adv.

... for the plaintiff

Mr. Vineet Ruia

... appears in person

The Court: Mr. Satadeep Bhattacharya, learned Advocate, is appearing for the plaintiff.

Defendant no. 1 Mr. Vineet Ruia, is appearing in person.

Defendant has filed the present application being GA/7/2024 praying for following relief:

(a) Accept this petition filed by the Defendants as released by the NCDRC with the observation that the matter is seized with this Hon'ble Court in C.S. 247 of 2021.

(b) Consider and pass orders on the prayers before the NCDRC.

(c) Appoint investigating agency to unearth the truth and facts of the entire case.

- (d) Proceed with prosecution of the Plaintiff u/s 340 CrPC read with section 195 CrPC along with other sections of IPC as mentioned in this application or as this Hon'ble Court thinks fit.*
- (e) Vacate all interim orders passed in the said suit.*
- (f) Either specifically allow the defendants to claim the reliefs claimed before the NCDRC and thereby amend the Written Statement/Counter Claim; OR if it is not permissible in law, reject this application outright in order to allow the defendants to approach the appropriate forum.*
- (g) Costs*
- (h) Pass any order/orders for such other relief/reliefs as this Hon'ble Court may deem fit and proper.*

The defendant submitted that the NCDRC by an order dated 23rd August, 2023 has dismissed his claim by giving the liberty to the defendant to claim his relief in the Civil Suit being CS/247/2021 pending before this Court and accordingly the defendant has filed the present application.

Learned Counsel for the plaintiff draws the attention of this Court in to the order passed in GA/4/2023 in CS/247/2021 wherein this Court has rejected the application filed by the defendant, but this Court has given liberty to the defendant to claim the same self-relief before this Court in a subsequent stage if permissible in law.

Learned Counsel for the plaintiff submits that in GA/4/2023 the defendant has prayed for similar relief as prayed in GA/7/2024 except the prayer (f) which reads as follows:

(f) Either specifically allow the defendants to claim the reliefs claimed before the NCDRC and thereby amend the Written Statement/Counter Claim; OR if it is not permissible in law, reject this application outright in order to allow the defendants to approach the appropriate forum.

Counsel for the plaintiff submits that at the time of disposal of GA/4/2023 dated 11th December, 2023, the order passed by the NCDRC dated 23rd August, 2023 was in existence and in spite of the same this Court dismissed the application being GA/4/2023 and as such no further cause of action arose in favour of the defendant to file GA/7/2024 claiming the same relief.

Considered the submission made counsel by the plaintiff and the defendant in person.

This Court finds that the defendant has earlier filed GA/4/2023 claiming the same relief except prayer (f) as mentioned above and this Court has dismissed the said application by giving the liberty to the defendant to claim the same relief in subsequent stage if permissible in law and now the defendant has submitted that the NCDRC while dismissing the application on 23rd August, 2023 given liberty to the defendant to approach this Court and accordingly the defendant has filed the present application.

The submission made by the counsel by the defendant cannot stand as the order dated 23rd August, 2023 passed by the NCDRC is before the order passed by this Court in GA/4/2023 on 11th December, 2023 and as

such it cannot be said new cause of action has arisen to file the present application being GA/7/2024 in terms of the order passed by the NCDRC dated 23rd August 2023.

Accordingly this Court finds that there is no merit in the application, GA/7/2024 accordingly the same is dismissed.

(KRISHNA RAO, J.)

DB