

OD-6

ORDER SHEET

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

CS/219/2024

SOMNATH ENCLAVE PVT LTD
-VS-
SEWNARAYAN KHUBCHAND AND ANR.

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: November 14, 2024.

Appearance:

Mr. Mainak Bose, Adv.
Mr. Sabyasachi Sen, Adv.
... for the plaintiff

The Court : Mr. Mainak Bose, learned Advocate, is appearing for the plaintiff.

The matter is listed under the heading "Presentation of Plaintiff" as per the report submitted by the learned Master and Official Referee dated 11th November, 2024.

This Court perused the report wherein it is mentioned that "*Upon perusal of paragraph No. 35 of the plaint, it is found that the plaintiff's cause of action arose on October 30, 2024. However, no documents have been presented in support of such date. Hence, the undersigned is not in a position to admit this plaint*".

From the report this Court found that the learned Master and Official Referee is of the view that the plaintiff has not disclosed any documents with regard to the cause of action and as such, the plaint was not admitted by the learned Master.

Considering the above, it is clarified that for the cause of action always it is not necessary that there should be a document for the cause of action. It is the specific case of the plaintiff in paragraphs 35 and 29 that the plaintiff came to know from the occupant of the building that some men in common areas of the subject property had been undergoing measurements and survey of the entire property. Upon enquiry it transpired that measurements were being undertaken to prepare a survey plan of the entire property measuring in excess of 17 cottahs. It is also mentioned that the defendant no.1 was proposing to construct a multi-storied building in the subject property including the portion in which the plaintiff is in occupation as a lessee.

Considering the above averments made by the plaintiff in the plaint, this Court finds that there is no necessity of any document for the cause of action. Thus, the matter is referred to the learned Master for admission subject to scrutiny.

(KRISHNA RAO, J.)