



OCD-99

ORDER SHEET

AS/4/2010

IA No.GA/1/2010(Old No.GA/2959/2010), GA/3/2011(Old
No.GA/3419/2011), GA/4/2012(Old No.GA/2527/2012, GA/5/2013(Old
No.GA/1756/2013), GA/8/2018(Old No.GA/3384/2018), GA-COM/13/2024,
GA-COM/14/2024

IN THE HIGH COURT AT CALCUTTA
ADMIRALTY JURISDICTION
COMMERCIAL DIVISION

RASHMI METALIKS LIMITED
VS
THE OWNERS & PARTIES INT. IN THE VESSEL M.V. VAN NICE

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 22nd August, 2024.

Appearance:

Mr. Ranjan Bachawat, Sr. Adv.

Mr. Sakya Sen, Adv.

Mr. Subhankar Nag, Adv.

Mr. Avishek Guha, Adv.

Mr. Chayan Gupta, Adv.

Ms. Sonal Agarwal, Adv.

Ms. Enakshi Saha, Adv.

..for the plaintiff

Mr. Soumabho Ghose, Adv.

Ms. Riti Basu, Adv.

Mr. Ayant Shaw, Adv.

..for the defendant

The Court: Learned counsel for the plaintiff submits that due to unavoidable circumstances, as indicated in the application, the evidence on commission could not be concluded within the time-line as given in the order



dated April 9, 2024. Accordingly, six months' extension of the time is prayed for.

Learned counsel for the defendant opposes the prayer and submits that the evidence has not yet been started, which palpably shows the utter lack of diligence of the plaintiff. It is submitted that not only did the plaintiff fail to commence evidence on commission till date, even the present application was filed after expiry of the time-line as stipulated in the direction dated April 9, 2024 for conclusion of the commission. It is, thus, submitted that the prayer made in the present application ought to be dismissed.

Learned counsel also places reliance on the Division Bench order dated June 20, 2023 where it was specifically mentioned that if the hearing of the suit is delayed due to lack of diligence on the part of the plaintiff and the delay is attributable to the plaintiff, the defendant shall be entitled to seek release of the bank guarantee which had then been kept renewed till December 2023.

Upon a perusal of the cause shown in the present application, I am satisfied that there was sufficient reason for the delay in commencement of the evidence on commission. In the event the defendant is aggrieved by the lack of diligence on the part of the plaintiff, it is always open to the defendant to take appropriate steps in terms of the Division Bench order dated June 20, 2023. However, in the present case, I do not find any laches on the part of the plaintiff in the delay occasioned in commencing the evidence.



Accordingly, GA-COM/14/2024 is allowed, thereby extending the time of conclusion of the evidence on commission for a further period of six months from date.

(SABYASACHI BHATTACHARYYAJ.)

bp/R Bhar.