



IN THE HIGH COURT AT CALCUTTA
ADMIRALTY JURISDICTION
ORIGINAL SIDE

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)

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

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 15th June, 2023

Appearance:-

Mr. Suvankar Nag, Adv.

Mr. Avishek Guha, Adv.

Ms. Arunika Dutta, Adv.

...for the plaintiff

Mr. Soumabho Ghose, Adv.

Ms. Tian Bhattacharyya, Adv.

Ms. Riti Basu, Adv.

Mr. Sayan Banerjee, Adv.

Ms. Piyali Pan, Adv.

...for the defendant

The Court:- By an order dated 8th June, 2023 the plaintiff had sought an opportunity to take instructions in the matter.

This suit is pending since 2009.

It is submitted on behalf of the defendant Owners that pursuant to an order of arrest, the defendant owners had furnished a bank guarantee which has been kept renewed till date. The suit had been repeatedly adjourned and the plaintiff has taken no steps in the suit.

It is submitted on behalf of the plaintiff that they have taken a change in this suit and they are yet to obtain the cause papers.



The repeated opportunities taken by the plaintiff on several occasions inter-alia i.e., 8th June, 2023, 6th February, 2023 and 10th April, 2023, demonstrate that the plaintiff has not been diligent in proceeding with the suit.

Significantly, the defendant had filed an application seeking dismissal of the suit on the ground that the plaintiff had not been diligent and had taken no steps in this suit for a period of more than 10 years after having obtained the interim order of arrest. By an order dated 10th April, 2023, the said application, was disposed of on the ground that the plaintiff had appeared and had undertaken to contest the suit on merits and take all necessary steps in the suit.

Notwithstanding the order dated 10th April, 2023 the plaintiff is not in a position to proceed with this suit. The repeated change of Advocates on behalf of the plaintiff is no reason to justify the indolent, lackadaisical and unpreparedness of the plaintiff. No litigant has a vested right to seek repeated adjournments. There is no reason to exercise any discretion in favour of the plaintiff.

In view of the aforesaid, AS/4/2010 stands dismissed for non-prosecution.

The bank guarantees furnished by the defendant in terms of the interim order shall stand released by the Registrar, Original Side.

(RAVI KRISHAN KAPUR, J.)