

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

CS-COM/557/2024
[OLD NO CS/221/2023]

CELICA VENTURES
VS
ULTIMA REFRIGERATION AND ORS.

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : 26th September, 2025.

Appearance:

Mr. S. Chakraborty, Adv.

Mr. A. Halder, Adv.

...for the defendant nos. 2A, 3 & 4

Mr. Souvik Kundu, Adv.

Mr. Abir Debnath, Adv.

...for the defendant no.5

1. By an order dated 10th January, 2025, this Court directed the parties to complete discovery and inspection of documents and to file affidavit of admission and denial of the documents as well as the suggested issues. Thereafter, the matter was taken up for hearing on 7th April, 2025. On the said date the learned Counsel for the defendant no. 5 prays for time to complete the discovery and inspection of documents and to file suggested issues.
2. Accordingly, the time was granted. The matter was again taken up for hearing on 12th June, 2025 and on the said date again the defendant no. 5 has taken the time for completing the discovery and inspection of the documents, filing the affidavit of admission and denial of the document and filing suggested issues.
3. As per the submission made by the counsel for the defendant no. 5, the case was adjourned.

4. Today when the matter is taken up for hearing for framing of issues, again the learned Counsel for the defendant no. 5 prays for extension of time. This Court finds that for the last nine months the defendant no. 5 is taking time but is not completing the discovery and inspection of documents and also not filling the affidavit of admission and denial of the documents. Even the defendant no. 5 did not choose to give the suggested issues though the plaintiff has already filed the suggested issues and affidavit of admission and denial of the documents.
5. It is also found that the defendant nos. 2(a), 3 and 4 have filed their respective affidavits of admission and denial of the documents.
6. Considering the circumstances mentioned above, this Court finds that the defendant no. 5 only to drag the matter whenever the case has been taken up for hearing is taking the extension of time for discovery and inspection of documents but inspite of granting time the defendant no. 5 chose not to complete the discovery and inspection of the documents and to file the affidavit of admission and denial of the documents.
7. In view of the above, this Court finds that this is a fit case wherein the chance to file the affidavit of admission and denial of the documents by the defendant no. 5 should be closed and the suit should be proceeded for framing of issues.
8. Considered the submissions made by the Counsel for the respective parties. Perused the pleadings and suggested issues filed by the plaintiff.

9. The following issues are framed :

I S S U E S

1. Whether the plaintiff is entitled to the refund of Rs.27,00,000/- along with interest thereon @24% p.a. from 14th January, 2023 against the defendants as sought in paragraph 16 of the plaint ?
2. Whether the plaintiff is entitled to receive Rs.24,00,000/- with interest thereon @24% p.a. from January 14, 2023 against the defendants on account of loss of rental income as sought in paragraph 17 of the plaint ?
3. Whether the plaintiff is entitled to receive Rs.10,00,000/- with interest thereon @24% p.a. from January 14, 2023 against the defendants on account of compensation for loss and damages for goodwill as sought in paragraph 18 of the plaint or such amount which the Hon'ble Court after enquiry may think proper ?
4. Whether the suit is maintainable in its present form ?
5. Whether the defendant no. 1 was acting as an agent of the defendant No. 5 to supply the materials and install the units as per the purchase orders placed by the plaintiff ?
6. Whether the plaintiff is entitled to any other relief ?
7. Whether the plaintiff company is registered under the Companies Act, 2013 ?
8. Whether there is any privity of contract between the plaintiff and the defendant no. 5 ?

10. The plaintiff is directed to file Judge's brief of documents within a period of four weeks after puja vacation. The affidavit of evidence be filed within a week thereafter after serving the copy to the learned Counsel for the defendant.
11. List the matter on 11th December, 2025 at 2 P.M. for "Witness Action".

(KRISHNA RAO, J.)