

ODC-11

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

IA NO. GA/1/2022
In CS/113/2022

OPTIMUM INFRATEL PRIVATE LIMITED
Vs
TORUS BIILDCON PRIVATE LIMITED AND OTHERS

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 22nd August, 2022.

The Court:- None appears on behalf of the plaintiff nor is any accommodation prayed for on their behalf.

The suit has been filed before the Commercial Division of this Court. In this suit, the plaintiff has filed this application seeking interlocutory reliefs. The matter had appeared earlier on diverse occasions i.e 18th July, 2022, 25th July, 2022, 28th July, 2022 and 29th July, 2022 respectively when the plaintiff has been unrepresented.

It appears that the plaintiff is not diligent in prosecuting this lis. It is also obvious that there is no urgency in this matter. Significantly, the mandatory requirement for Pre Institution, Mediation and Settlement had also been dispensed with when the plaint was presented.

It is now well settled that the provision of section 12A of the Commercial Courts Act, 2015 is mandatory subject to exceptional circumstances contemplated under the section.

In view of the repeated occasions on which the suit has been adjourned and the continuous non appearance of the plaintiffs, it is apparent that the entire basis for dispensation with the requirement under Section 12A of the Act was unfounded and baseless.

In my view, the suit has been instituted violating the mandate of Section 12A of the Act and the dispensation with the requirement of Section 12A of the Act is liable to be revoked *suo moto* by rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure 1908.

Accordingly, CS 113/2022 stands dismissed.

In view of the dismissal of this suit, GA 1/2022 also stands dismissed as infructuous.

(RAVI KRISHAN KAPUR, J.)