

Item No. 19
23.06.2023
Court. No. 19
GB

C.O. 1722 of 2023

Kolkata Metropolitan Development Authority (KMDA)
Vs.
SMS Limited
(erstwhile known as SMS Infrastructure Limited)

Mr. Naba Kumar Das,
Mr. Pathik Bandhu Banerjee

...for the Petitioner.

Mr. Sourajit Dasgupta,
Mr. Shourjyo Mukherjee,
Mr. Vishwarup Acharyya

...for the Opposite Party.

Affidavit-of-service filed in Court today, be kept with the record.

The revisional application is filed challenging the order dated April 10, 2023 passed by the learned Judge, Commercial Court, Rajarhat, North 24 Parganas in Money Suit No.30 of 2019.

Having heard the learned advocates for the respective parties, this Court is of the view that imposition of cost of Rs.1,00,000/- by order dated April 10, 2023 is not justified as the main applications are yet to be decided by the learned court below. The cost could be imposed, if the applications upon adjudication on merits, were either found to frivolous, vexations and resulting in dilatory tactics or were filed to mislead the court. Without adjudication of the applications, prior imposition of cost is not justified.

Under such circumstances, the revisional application is allowed to the extent that the imposition of cost by the order impugned is set aside. The learned court below shall

complete the hearing of the applications on their own merits within a month from the next date fixed upon granting opportunities to the parties.

This Court has not expressed any opinion with regard to the merits of the pending applications. Upon disposal of the said applications, the learned court below is requested to dispose of the suit as expeditiously as possible, without granting unnecessary adjournments to either of the parties. The defendants shall not pray for adjournments as has been the case in the past.

Accordingly, the revisional application is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)