

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

CS 138 OF 2023
IN THE MATTER OF:
NIRMAL KUMAR KAR
VS
SENBO ENGINEERING LIMITED

BEFORE:
The Hon'ble JUSTICE ARINDAM MUKHERJEE
Date : 25th July, 2023.

Appearance:
Mr. Triptimoy Talukder, Adv.
Mr. Diptomoy Talukder, Adv.
For plaintiff

The Court : At the time when the plaint was sought to be presented certain defects were noticed. The plaintiff, therefore, was given leave to rectify such defects. It now appears that two annexures although pleaded in the plaint and referred to in the schedule have not been annexed.

This suit is filed in the Commercial Division of this Court. The Commercial Courts Act, 2015 mandates disclosure of all documents along with the plaint. The said Act further provides that in case of any additional documents to be filed specific leave of the Court is necessary. The plaint has not been admitted and, as such, it is technically impermissible to allow incorporation of annexures, which have been missed out. That apart the insertions made in the plaint pursuant to the leave are substantial.

In the aforesaid facts and circumstances, the only course open is to return

the plaint along with the court fees to the plaintiff for filing afresh on the self-same cause, if otherwise permissible in law.

The plaint along with the court fees is directed to be returned to the plaintiff with the leave to the plaintiff to use such court fees in any suit that may be filed against the same set of defendant on the self-same cause, if otherwise permissible in law.

The department is directed to return the plaint as expeditiously as possible after completing the necessary formalities.

The department is also directed to de-register the suit and the number from the records of this Court.

(ARINDAM MUKHERJEE, J.)

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