

OD-6

ORDER SHEET

IA No.GA/5/2024

In CS/138/2017

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

SAGAR INTERNATIONAL LIMITED

-VS-

TIANJIN HUILITONGS STEEL TUBE CO. LIMITED & ANR.

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : May 9, 2024.

Appearance :

Mr. Arijeet Doss Mullick, Adv.

Mr. Subhasis Pyne, Adv.

Mr. Sounak Banerjee, Adv.

... for the plaintiff

Mr. Moti Sagar Tiwari, Adv.

... for the defendant no.1

The Court: Mr. Arijeet Doss Mullick, learned counsel, is appearing for the plaintiff. Mr. Moti Sagar Tiwari, learned counsel, is appearing for the defendant no.1 but he prays for discharge from this case as an advocate for the defendant no.1.

Counsel for the defendant no.1 has also submitted the affidavit of service showing that notice was served upon the defendant no.1 through e-mail but in spite of service of notice, no instruction has been provided to the learned counsel by the defendant no.1.

The plaintiff has also filed affidavit of service in terms of the order dated 2nd May, 2024 showing that the notice was served upon the defendant

no.1 informing the date of hearing but in spite of notice, none appears on behalf of the defendant no.1.

Let the affidavits of service be kept with the record.

Mr. Moti Sagar Tiwari, Learned counsel for the defendant no.1 is discharged from the instant case.

The plaintiff has filed the present application being GA/5/2024 praying for leave to withdraw the bank guarantee being No.0505219BG0000629 lying with the Registrar, Insolvency of this Court which was deposited by the plaintiff in terms of the order passed by this Court dated 26th July, 2017.

Counsel for the plaintiff submits that in terms of the order dated 1st April, 2019 the plaintiff was granted liberty to release the amount deposited by the defendant no.1 by furnishing an unconditional bank guarantee for the said sum on an undertaking that such bank guarantee shall be renewed till the disposal of the suit.

The suit filed by the plaintiff is disposed of by an order dated 13th September, 2014 by disposing of GA/13/2018 but the suit continues as the defendant no.1 had filed counter-claim. By an order dated 22nd February, 2024 the counter-claim filed by the defendant no.1 was dismissed for default and as such, as on date, neither the suit nor the counter-claim is pending.

As the suit along with counter-claim has been disposed of, accordingly, the plaintiff has filed the present application for release of the bank guarantee submitted by the plaintiff in terms of the order passed by this Court.

Considered the submission made by the counsel for the plaintiff.
Perused the orders.

This Court finds that by an order dated 1st April, 2019 this Court has allowed the plaintiff to withdraw the amount by furnishing an unconditional bank guarantee and the same was complied with but the said bank guarantee is to be continued till the disposal of the suit. Now the suit is disposed of and thus, there is no impediment for allowing the plaintiff to withdraw the bank guarantee which is lying with the Registrar, Insolvency of this Court.

In view of the above, the Registrar, Insolvency of this Court is directed to release the bank guarantee No.0505219BG0000629 to the plaintiff on proper identification within a week from the date of receipt of request, if any, made by the plaintiff.

In view of the above GA/5/2024 is disposed of.

(KRISHNA RAO, J.)

RS