

OCD-5

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
(COMMERCIAL DIVISION)
ORIGINAL SIDE

APOT/359/2024
WITH CS-COM/712/2024

PRABHA INFRASTRUCTURE PRIVATE LIMITED.
VS.
SKIPPER LIMITED

BEFORE:
The Hon'ble JUSTICE SOUMEN SEN
The Hon'ble JUSTICE BISWAROOP CHOWDHURY
Date: 20th November, 2024.

Appearance:
Mr. Dwaipayan Basu Mullick, Adv.
Mr. Ritoban Sarkar, Adv.
Mr. Tanuj Luhariwala, Adv.
Mr. Rites Goel, Adv.
...for the Appellant

Mr. Sabyasachi Chowdhury, Adv.
Mr. Sayantan Bose, Adv.
Mr. Shounak Mukhopadhyay, Adv.
Ms. Manisha Das, Adv.
...for the Respondent.

The Court : The plaintiff is admittedly an unpaid vendor. We have read the judgment of the learned Single Judge carefully. It has been argued that there was a delay in filing the suit and there has been unequivocal admission of liability which stands to be irrefutable as the plaintiff is an unpaid vendor for the goods supplied on the basis of the purchase order. The allegation of the defendant is that there was 77 days delay in supplying the goods by the plaintiff to the defendant which appears to be unsubstantiated and there has been no counter-claim filed by the defendant

which again goes to prima facie show that such defence is a very weak defence not sustainable to resist the order passed at the ad interim stage. Moreover, we find that the defendant admittedly in one of its communications has agreed to pay Rs.10-12 lacs and to make further payment after reconciliation. This also had not taken place.

On such consideration, we do not find any reason to interfere with the ad interim order passed after hearing the learned counsel for the parties.

The views expressed are prima facie and shall not influence the learned Single Judge while deciding the interlocutory application on merits.

All issues including the jurisdiction of this Court are left open to be decided by the learned Single Judge in the pending proceeding.

Accordingly, the appeal is disposed of.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J)