

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

IA No. GA-COM/2/2023
In CS-COM/422/2024

M/S. RAMAN CONSTRUCTION PVT LTD
-VS-
M/S. DRISHTI TRADE AND EXPORTS

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : December 17, 2024.

Appearance:

Mr. Anirban Ray, Sr. Adv.
Mr. Debraj Sahu, Adv.
Ms. Sweta Mukherjee, Adv.
... for the plaintiff

Mr. Siddhartha Banerjee, Adv.
Mr. Subir Banerjee, Adv.
Mr. Sital Chakraborty, Adv.
Ms. Susmita Nath, Adv.
... for the defendant

The Court: Mr. Anirban Ray, learned Senior Advocate, is appearing for the plaintiff.

Mr. Siddhartha Banerjee, learned Advocate, is appearing for the defendant.

The plaintiff has filed the present suit being CS-COM/422/2024 (Old No. CS/217/2022) praying for a decree for a sum of Rs.3,16,76,280/- along with interest.

The plaintiff has also filed an application being GA-COM/2/2023 praying for judgment upon admission on the ground that the defendant has admitted the claim of the plaintiff in the mediation proceeding which was

disposed of with the settlement between the parties by an order dated 23rd December, 2021. The plaintiff has filed the present application being GA-COM/2/2023 on the basis of the settlement arrived between the parties before the Mediator.

Counsel for the defendant has raised objection and submitted that neither the suit nor the application filed by the plaintiff is maintainable and prayed for dismissal of the suit as well as the application. Counsel for the defendant submits that the order passed by the learned Mediator as settlement cannot be relied by the plaintiff in the present suit.

Counsel for the plaintiff submits that in spite of the settlement arrived between the parties and the fact that the defendant has admitted the amount claimed by the plaintiff, the defendant has not paid the said amount in terms of the settlement. Accordingly, the plaintiff has no other alternative but to file the present suit for recovery of the said amount.

Heard learned counsel for the respective parties. Perused the plaint and the settlement arrived between the parties before the Mediator in the pre-litigation mediation in commercial disputes in connection with PLM/29/2021 (M/s. Raman Construction Pvt. Ltd. vs. M/s. Drishti Trade & Exports).

This Court finds that before the learned Mediator the parties have settled their disputes and accordingly, the learned Mediator has passed the order which was duly accepted by both the parties on 23rd December, 2021. Thus, this Court finds that the matter has been settled between the parties in the pre-litigation mediation by an order dated 23rd December, 2021 and as such, if the defendant fails to carry out the order or comply with the settlement, the plaintiff is having other remedy to execute the said order.

Thus, the suit being CS-COM/422/2024 (Old No. CS/217/2022) along with the application being GA-COM/2/2023 is not maintainable.

Accordingly, CS-COM/422/2024 (Old No. CS/217/2022) along with GA-COM/2/2023 is dismissed as not maintainable.

It is made clear that this Court has not gone into the merits of the matter.

(KRISHNA RAO, J.)

RS