

D/L
Item No. 1193
26.06.2025
KOLE

CO 897 of 2025

Hindustan Steel Works Construction Ltd.

-Vs.-

Pradip Goswami

*Mr. Arik Banerjee,
Mr. Abir Das,
Mr. Tathagata Deb,*

...for the petitioner.

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order No. 89 dated December 18, 2024 passed by the learned Judge, Commercial Court at Asansol in IA No. 12 of 2024 in connection with Money Suit No. 11 of 2019 (New Money Suit (Commercial No. 04 of 2024)).

By the order impugned, the application filed by the petitioner praying for leave to file additional documents stood rejected.

The learned Advocate appearing for the petitioner submits that in the month of July 2024 the petitioner company discovered certain documents to prove that the payments have been duly made to the plaintiff opposite party herein. He further submits that the said document were not traceable by the defendant as the same were about 25 years old but luckily the payment related documents could be traced out by the petitioner company after putting efforts. He submits that immediately after such documents were traced out the application was filed. He submits that unless leave is granted

to file such additional documents, the petitioner will suffer irreparable loss and injury.

In support of his contention that the documents which were traced out subsequently can also be permitted to be relied upon, the learned Advocate for the petitioner places reliance upon the decision of the Hon'ble Apex Court in the case of **Sudhir Kumar-vs.-Vinay Kumar G.B.**, reported in **AIR 2021 SC 4303**.

The opposite party filed a suit for recovery of money before the learned Civil Judge, Senior Division, Durgapur on September 16, 2017. Since the disputes were commercial in nature, the suit was transferred to the Commercial Court at Asansol. The evidence of the parties as well as the arguments of the respective parties had been concluded. Thereafter, the matter was posted for filing written notes of argument. At that stage, the application was filed seeking to introduce certain documents which, according to the petitioner, had been traced out by the defendant company very recently.

The learned Judge of the Commercial Court after going through the cause shown by the petitioner for filing such application at the belated stage was right in holding that the petitioner did not provide any sufficient justification for filing the said application at a belated stage.

This Court finds that only a vague statement has been made in the said application that very recently the documents could be traced out. It has been further stated in the said application that the defendant company could trace out 43 bills out of 57 bills which clearly shows that the payments to

the plaintiff had been made as per the contractual terms and the plaintiff has made a wrong and misleading statement under affidavit before the learned Trial Judge.

In the written statement filed by the defendant company in the suit, it has been specifically stated that the final payment with regard to the work at Durgapur Steel Plant has not been settled by the authority of the Durgapur Steel Plant and unless such bills are settled, it cannot be said that the plaintiff is entitled to get any payment or not. In the written statement the defendant has only denied that the plaintiff is entitled to the amount which he has claimed in the plaint. There is no averment in the written statement with regard to the case which the petitioner is now seeking to make by way of leave to produce additional documents.

After going through the application filed seeking leave to produce additional evidence, this Court finds that the petitioner is trying to make out a new case and to fill up the lacuna in evidence after the closure of evidence which is not permissible. It is well settled that evidence beyond pleadings cannot be looked into.

The case made out in the written statement is that payments could not be made as the bills were not settled by the competent authority. Petitioner is now seeking to make out a new case that payments have been duly made to the plaintiff.

In **Sudhir Kumar (supra)**, the application under Order 11 seeking leave to file the additional documents were sought for at the stage when the *interlocutory* application

namely injunction application was being heard. The said decision being distinguishable on facts, cannot be given to the aid of the petitioner in the case on hand.

The learned Trial Judge recorded cogent reasons for rejecting such application. This court is not inclined to interfere with such order sitting under Article 227 of the Constitution of India.

For the reasons aforestated, CO No. 897 of 2025 stands dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Hiranmay Bhattacharyya, J.)