

D/L- 31
15/05/2025
Ct. No.-6
Aritra

C.O. 1696 of 2025

Omkar Infracon Pvt. Ltd.
Vs.
Mr. Tushar Mukherjee & Ors.

Mr. Arik Banerjee
Mr. Sarangam Chakraborty
....for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order being No.20 dated March 7, 2025 passed by the learned Judge Commercial Court at Rajarhat, District-North 24-Parganas in I.A. No.3 of 2024 arising out of M.S.(Com) 114 of 2024.

By the said order the application under Order 12, Rule 6 of the Code of Civil Procedure filed by the plaintiff/petitioner herein was disposed of and the ad interim order of injunction was extended.

The petitioner is aggrieved by the portion of the order by which the application under Order 12, Rule 6 of the Code of Civil Procedure was disposed of.

The learned advocate appearing for the petitioner draws the attention of the Court to an e-mail dated December 15, 2023 in support of his contention that the opposite party herein has specifically admitted that a certain sum of rupees is outstanding and the opposite party has undertaken to release the payment with the time indicated in the said letter.

The learned trial judge after considering the materials on record arrived at a finding that there is no candid admission of the claim of the plaintiff by the defendants necessitating passing a judgment on admission. The defendants have brought an aspersion of fraudulent misuse of access to their computer and knowledge of password and e-mail id. resulting in the issuance of the e-mail dated December 15, 2023 allegedly issued by the defendants to the Director of the plaintiff's company. The learned trial judge has further noted that several criminal litigations are pending between the parties and the plaintiff has also filed a criminal case under Section 138 of the Negotiable Instruments Act regarding bouncing of two cheques.

The opposite parties have filed an F.I.R. dated February 2, 2024 alleging that two signed cheques were stolen.

In the light of the aforesaid factual findings the learned trial judge was not inclined to pass a judgment on admission and was of the view that an opportunity should be granted to the contesting parties to lead evidence at the time of trial.

This Court finds that the learned trial judge has assigned cogent reasons while disposing of the application under Order 12, Rule 6 of the Code of Civil Procedure. This Court is not inclined to interfere with

such order in exercise of power under Article 227 of the Constitution of India.

With the above observations CO 1696 of 2025 stands disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)