

Sl. 62
25.03.2025
Court No.6
BP

C.O. 4394 of 2024

Nataraj Das
-versus-
RKD Niraj JV & Ors.

Mr. Rahul Karmakar
Ms. Gargi Goswami
Mr. Saunak Mukherjee
.... 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.2 dated December 9, 2024 passed by the learned Judge, Commercial Court at Alipore in Money Suit (Com) No. 161 of 2024.

Mr. Karmakar, learned advocate appearing for the petitioner submits that the summons were despatched pursuant to the order dated October 3, 2024 and the opposite parties herein received the summons between October 5-7, 2024.

Mr. Karmakar further submits that since the defendant did not enter appearance in the suit in terms of the provisions laid down under Order 37 Rule 2 of the Code of Civil Procedure the plaintiff/petitioner herein is entitled to a decree. He further submits that an application in that regard has already been filed by the petitioner before the learned trial judge being IA 2 of 2024.

Mr. Karmakar further submits that the learned trial judge is proceeding in a manner which is contrary to the object of Order 37 of the Code of Civil Procedure read with the Commercial Court's Act.

It appears from the order dated 3rd January, 2025 that the hearing of the application being I.A. No.2 of 2024 was fixed on 1st February, 2025 and the same was adjourned to 22nd April, 2025 by an order dated 1st February, 2025.

Considering the fact that the suit is under Order 37 of the Code of Civil Procedure and is a commercial suit under the provisions of the Commercial Court's Act, the application being I.A. No. 2 of 2024 is required to be disposed of expeditiously.

Considering the fact that 22nd April, 2025 has been fixed for hearing of I.A. No. 2 of 2024, C.O. 4394 of 2024 is disposed of by requesting the learned Judge, Commercial Court at Alipore to take up the hearing of I.A. 2 of 2024 on the next date fixed i.e. on April 22, 2025.

If the hearing of the said application is not concluded on that date, the learned Judge is requested to fix a short date of hearing of such application and make an endeavour to see that such application is disposed of on or before May 8, 2025 without granting any unnecessary adjournment to either of the parties.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)