

IN THE HIGH COURT AT CALCUTTA
[Commercial Appellate Division]
ORIGINAL SIDE

APOT/1/2025
WITH
CS-COM/737/2024
IA NO: GA-COM/1/2025, GA-COM/2/2025

SSIPL RETAIL LIMITED
VS
ABHEYA REALTORS PRIVATE LIMITED AND ANR.

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 17th January, 2025

Appearance:

Mr. Rudraman Bhattacharyya, Sr. Adv.

Ms. Amrita Panja Moulick, Adv.

Mr. Akash Munshi, Adv.

Mr. Alishan Naqvee, Adv.

Mr. Rupal Bhatia, Adv.

Mr. Saurav Chaudhary, Adv.

...for the appellant.

Mr. Shiv Ratan Kakrania, Adv.

Ms. Shreya Goenka, Adv.

Ms. Jiya Bose, Adv.

...for the respondents.

1. The delay of 123 days in preferring the Memorandum of Appeal being sufficiently explained is condoned.
2. The appeal is arising out of an order dated 3rd July, 2024. Apart from the fact that the order appears to be a consent order and, hence, may not be appellable under the Code of Civil Procedure, it further appears that the learned single judge has applied its mind on perusal of the plaint.

3. It is submitted on behalf of the appellant that the concession recorded in the order does not amount to conferring the jurisdiction upon a Court which it otherwise does not possess.
4. It is submitted that the dispute is non-commercial in nature. However, no application was filed before the learned Single Judge either for recalling of the order dated 3rd July, 2024 or any demurrer application and in view thereof we are not inclined to interfere with the order.
5. However, it would be open for the appellant to take out a formal application for recalling of the order dated 3rd July, 2024 if so advised.
6. Since the question of jurisdiction is raised and from the order it appears that the said concession was taken into consideration, we feel that if an application is filed within a period of 7 days from date in the nature of demurrer or Order VII Rule 10, the same may be heard by the learned Single Judge. In the event, the said application is filed, we request the learned Single Judge to revisit the issue.
7. At the present moment, we are not interfering with the order dated 3rd July, 2024.
8. Mr. Kakrania, learned Advocate has submitted that in terms of order dated 3rd July, 2024, amendment has been carried out and the amended copy of the writ of summons has been served upon the advocate-on-record for the appellant on 20th August, 2024.
9. Considering the aforesaid, we are not inclined to stay the operation of the order, subject to the liberty we have given to the defendant no.1 to re-agitate this point.

10. Since no affidavit is filed, the allegations are deemed to have been denied.

11. The appeal and the connected applications are disposed of.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)