

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

CS-COM/677/2024
[Old No.CS/232/2023]
IA No.GA-COM/1/2023, GA-COM/4/2024

MODERN ROADWAYS CORPORATION
VS
SIMPLEX INFRASTRUCTURES LIMITED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : July 25, 2025.

Appearance :

Mr. Sujit Banerjee, Adv.
Mr. Nilay Sengupta, Adv.
...for the plaintiff

Mr. Debraj Sahu, Adv.
Mr. Aurin Chakraborty, Adv.
Mr. Snehashis Sen, Adv.
Mr. Prateek Debnath, Adv.
... for the defendant

1. The defendant has filed the present application being GA-COM/4/2024 praying for dismissal of the suit on the ground that the suit filed by the plaintiff is not pertaining to commercial dispute.
2. Counsel for the plaintiff agrees for transfer of the suit from the commercial division to the non-commercial division and has relied upon the judgment passed by the Division Bench of this Court in APOT/63/2025 with RVWO/31/2024 CS-COM/384/2024 IA NO: GA-COM/1/2025 (SUDERSHAN PRASAD BAGARIA AND ANR. -VERSUS- HARSHVARDHAN KHEMKA AND ORS.) dated 26th March, 2025 wherein the Hon'ble Division Bench of this Court has held as follows :

“21. On returning the plaint, it has to follow the procedure of the Original Side Rules of the court. The procedural formalities are different, more stringent in Commercial Division as compared to the procedure under the existing Code of Civil Procedure. None of

the decisions relied upon by the parties have dealt with the said issue at all. The parties cannot by agreement confer jurisdiction on a Court. However, it cannot be overlooked that a Commercial Division has no independent existence and is closely connected with ordinary original civil jurisdiction. Where the High Court is having ordinary original civil jurisdiction The Chief Justice of the High Court may by order constitute Commercial Division having one or more Benches to exercise jurisdiction under the Act of 2015. Thereby it is clear that Commercial Division is an extended arm or another wing of the ordinary original civil jurisdiction of the High Court. In such circumstances a plaint originally presented could be transferred in exercise of power to the Commercial Division which is in fact a wing of the very same ordinary original civil jurisdiction of the High Court and vice-versa. The power of the court to order a conversion in appropriate case to commercial division or vice versa could be exercised in absence of any prohibition. The issue is one of nomenclature.”

3. In view of the judgment passed by the Hon'ble Division Bench, the plaint filed in CS-COM/677/2024 along with application No. GA-COM/1/2023 be returned to the plaintiff with liberty to the plaintiff to file the same before the appropriate Court.
4. Counsel for the plaintiff prays for extension of the interim order. This Court has returned the plaint along with interlocutory application, thus, this Court cannot extend the interim order.
5. In view of the above, GA-COM/4/2024 along with CS-COM/677/2024 is disposed of.

(KRISHNA RAO, J.)