

10.04.2026
Item No.64 (DL)
Court No.06
AJ.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 2468 of 2025

CAN 1 of 2025

**Hindustan Steel Works Construction Limited
-Vs-
Avinash Raj Constructions Private Limited & Anr.**

Mr. Jit Ray,
Mr. Pritish Nandy,
Ms. Sneha Dutta.
.....for the petitioner.
Mr. Sujit Banerjee.
.....for the opposite party no.1.
Ms. Sampoorna Saha.
.....for the opposite party no.2.

1. This revisional application is directed against an order dated February 15, 2021 and an order dated June 02, 2025 passed by the learned Judge, Commercial Court North 24-Parganas, Rajarhat in Title Suit (Com) 12 of 2024.

2. By the order dated February 15, 2021 the opposite party no.1's application under Order XI Rules 14, 15 and 16 and Order XI Rule 12 of the Code of Civil Procedure, 1908 were allowed. Upon the said order being passed, the petitioner filed another application seeking recalling of the order dated February 15, 2021. By the order dated June 02, 2025 the said application for recalling of the order dated February 15, 2021 has been turned down. Hence the revisional application assailing both the orders.

3. Learned Advocate appearing for the petitioner submits that the order dated February 15, 2021 was

passed without granting any opportunity to the petitioner to file any opposition/written objection to the applications filed by the opposite party/plaintiff under Order IX Rule 12 and Order XI Rules 14, 15 and 16 of the Code.

4. It is further submitted that since the suit is a commercial one, the said applications ought to have been preceded by a notice in terms of Order XI Rule 5(2) of the Code, applicable to the Commercial Courts and that without such notice being issued, the application could not have been entertained at all.

5. Learned Advocate appearing for the opposite party no.1 submits that the petitioner's assertion that the order dated February 15, 2021 had been passed without affording an opportunity to the petitioner to file written objection is incorrect inasmuch as, by the order dated December 21, 2020 the petitioner was indeed granted time to file written objection. He hands up to Court a copy of the order dated December 21, 2020 passed by the learned Trial Court and submitted that the same has been suppressed in the revisional application. The same is taken on record.

6. It is next submitted that the suit in question was filed in the year 2013 when the Commercial Courts Act, 2015 was yet to be enacted and as such the provisions of Order XI Rule 5 of the Code as applicable to Commercial Courts cannot be strictly applied.

7. Having heard the learned Advocates appearing for the respective parties and having considered the material-on-record, this Court does not find any reason to interfere with any of the orders impugned.

8. In so far as the petitioner's contention that no opportunity was granted to the petitioner to file written objection to the aforesaid applications, is concerned the same does not appear to be correct inasmuch as by the order dated December 21, 2020 that was passed by the learned Trial Court in presence of the learned Advocate appearing for the petitioner, time was indeed granted to the petitioner to file written objection while fixing February 15, 2021 as the next date.

9. The order dated February 15, 2021 reveals that the petitioner contested the proceeding and the said order was thus passed on contest. The said order does not reflect that any further time or adjournment was sought for by the petitioner before the learned Trial Court for the purpose of filing written objection which was refused. Therefore the objection as regards violation of principles of natural justice cannot be countenanced at all.

10. In so far as the petitioner's submission that a notice in terms of Order XI Rule 5(2) of the Code ought to have preceded the application for disclosure, discovery and inspection of documents, this Court does not find any reason to hold the order bad merely for non-issuance of notice by the opposite party in terms of Order XI Rule 5(2) of the Code. A meaningful reading of the provisions

of Order XI Rule 5 does not lead to the conclusion that in all cases an application under Order XI Rule 5(1) must be preceded by a notice to a party under Order XI Rule 5(2) of the Code. The provision of Rule 5 (1) encapsulates independent power of the Court which is not conditional upon issuance of notice under Rule 5 (2) of Order XI of the Code. Furthermore, the learned Trial Court has taken the aspect into consideration that the suit was originally guided by the unamended provisions of the Code of Civil Procedure, 1908 and it was only upon the formation of the commercial division that the suit got transferred from Barasat Court to the Commercial Court.

11. The order dated June 02, 2025 whereby the petitioner's application for recalling of the order dated February 15, 2021 has been rejected has also been appropriately reasoned. Indeed, since the order dated February 15, 2021 had been passed on contest and since no case was made out for recalling of the application, the learned Trial Court has rightly rejected the same. The learned Trial Court has given cogent reasons for rejecting the petitioner's application for recall of the order dated February 15, 2021 and in such view of the matter, this Court finds no reason to interfere with the said order.

12. For all the aforesaid reasons, this Court does not find any reason to interfere with any of the orders impugned.

13. CO. 2468 of 2025 stands dismissed without any order as to costs.

14. CAN 1 of 2025 also stands disposed of accordingly.
15. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)