

IN THE HIGH COURT AT CALCUTTA

ORIGINAL SIDE

ALP/1/2026

RAIL PAL LOGISTIC PRIVATE LIMITED

Vs.

EMARS MINING AND CONSTRUCTION PRIVATE LIMITED

BEFORE

The Hon'ble Justice SHAMPA DUTT (PAUL)

Date: 12th March, 2026.

*Mr. Rishad Medora, Adv.
Mr. Meghajit Mukherjee, Adv.
...for the petitioner*

*Mr. Saubhik Chowdhury, Adv.
...for the respondent*

The Court:- The application under Clause 13 of the Letters Patent, 1865 has been preferred praying for transfer of Money Suit No.1825 of 2014 (Railpal Logistics Private Limited Vs. Emars Mining & Construction Pvt. Ltd.) pending before the Learned Commercial Court, Alipore, South 24 Parganas to this Hon'ble Court in its Extraordinary Jurisdiction.

Such prayer of the petitioner herein is strongly objected to on the ground that the suit sought to be transferred has progressed considerably and the petitioner herein is intentionally delaying the suit before the Commercial Court.

On hearing the learned counsels for the parties and on perusal of the materials on record, it appears that Money Suit No.1825 of 2014 has now been transferred to the Commercial Court at Alipore, vide order dated 16th January, 2026, passed by the learned Civil Judge, Senior Division, 2nd Court,

Alipore, South 24 Parganas. The next date before the Commercial Court is fixed on 20th March, 2026. A new number for the case is yet to be received.

It is the contention of the learned counsel for the petitioner that the money suit instituted by the petitioner herein in the year 2014 was sought to be transferred by the petitioner by filing an application in the year 2023. Admittedly, the respondent herein has preferred a Commercial Suit bearing No.99 of 2016 before the commercial division of this High Court. It appears that the parties in the money suit now transferred to the Commercial Court at Alipore and the commercial suit pending before the High Court are same. The defendants in the money suit are the plaintiffs before the High Court and the plaintiffs in the money suit are defendants before the High Court. The dispute in the money suit has been held to be a commercial dispute and it appears that both the parties have prayed for a money decree against each other. It further appears that the issue involved in both the suits, arises out of the same facts and circumstances and as such the claim is to be adjudicated on the materials in both the suits taken together for proper adjudication of the claim of the parties herein.

It is also the case of the petitioner herein that the petitioner could not pray for such transfer earlier on the ground that the matter was pending before the Civil Court for adjudication as to whether the money suit is a commercial suit.

Such prayer was pending for three years before the Civil Court and finally on 16th January, 2026, the Civil Court on finding that the dispute is a

commercial dispute transferred the case to the learned Commercial Court at Alipore and the next date fixed for hearing is on 20th March, 2026.

It appears that the petitioner herein without wasting time has come before this Court praying for such transfer.

Accordingly, the petitioner's prayer is to be considered and allowed, in view of the fact that –

- (i) The parties to the commercial suits are the same.
- (ii) The issue involved is common.
- (iii) The facts and circumstances and the evidence required to be gone into, to consider the claim of both the parties are also same.
- (iv) The respondents shall not be prejudiced.

Thus the said grounds make out a fair case for transfer of the Money Suit No.1825 of 2024, now pending before the Commercial Court, Alipore to the High Court.

ALP/1/2026 is allowed. Money Suit No.1825 of 2014 pending before the Commercial Court at Alipore be transferred to the High Court and be placed before the Bench having determination to hear CS 99/2016.

ALP/1/2026 stands disposed of.

(SHAMPA DUTT (PAUL), J.)