

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/752/2025
IA NO: GA-COM/1/2026

DIPANKAR SHAW AND ANR
VS
BARSANA SUPPLY NETWORK PVT LTD. AND ORS

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 11th March, 2026.

Appearance:

Mr. Altamash Alim, Adv.

Mr. Sourav Mondal, Adv.

...for the petitioner

Mr. Swatarup Banerjee, Adv.

Mr. Sunny Nandy, Adv.

Mr. Sumitava Chakraborty, Adv.

Mr. Anand Jha, Adv.

Mr. Shankharit Chakraborty, Adv.

Ms. Oindrila Ghosal, Adv.

...for the respondent

GA/1/2026

The Court: This is an application filed by the respondents seeking recall of the order dated 7th January, 2026 passed by this Court, whereby the respondents were directed to secure the claim of the petitioner by depositing a sum of Rs.10 lakh by way of demand draft in favour of the Registrar, Original Side, to remain deposited until constitution of the arbitral tribunal or until further orders.

Learned counsel for the respondents contends that the petitioner suppressed material facts regarding the alleged resignation of the

respondent from the respondent company and that the order dated 07.01.2026 was obtained by misrepresentation. It is further contended that the Joint Venture Agreement contains clauses under which the respondents were not duty-bound to refund the claims of the petitioner and that the said agreement has been wrongly interpreted by the petitioner in order to secure favourable order. It is further contended that the respondent no.4 was unwell during the relevant period and could not properly instruct the learned Counsel, as a result of which certain facts were not adequately brought before the Court in his affidavit-in-opposition. On such grounds, recall of the order is prayed for.

From the record it appears that the matter was listed on 22.09.2025, when directions were issued for filing of an affidavit-in-opposition. Learned Counsel for the respondents entered appearance on 10.11.2025. Time was granted for filing the affidavit-in-opposition which was filed on 17.12.2025. The matter was thereafter heard at length on 07.01.2026. Upon consideration of the materials on record and the pleadings and the submissions advanced by Counsel for both parties, the order dated 07.01.2026 was passed.

It is well settled proposition that the power of recall is extremely limited in scope and an order passed after hearing the parties may be recalled only in circumstances such as fraud, palpable procedural irregularities, absence of notice or an error apparent on the face of record. Recall cannot be invoked as a substitute for review nor can it be sought on the ground that a party failed to properly present the case despite having been granted adequate and full opportunity.

In the present case, the order dated 07.01.2026 was passed after affording adequate opportunity to the respondents. The materials on record were duly considered. It is specifically noted that they disputed the signature of the respondent no.4 in the affidavit. Taking into account the prima facie view, balance of convenience and other relevant considerations, this Court had directed the respondents to secure the claim of the petitioner by way of depositing as an interim measure. The plea of the respondent no.4 was that he was unwell and therefore, could not properly instruct his Counsel, properly which allegedly resulted in passing of the order, can in no way be held to constitute fraud, suppression by the opposite party or procedural impropriety vitiating the order. No such exceptional circumstances have been established which would warrant recall, review or modification of the order passed on 07.01.2026. In any event, the interim arrangement is operative only until constitution of the arbitral tribunal. Upon constitution of the arbitral tribunal, the parties shall be at liberty to seek appropriate relief before the Tribunal in accordance with law.

In view of the same, no ground warranting exercise of the power of recall is made out.

Accordingly, the present application stands dismissed.

(GAURANG KANTH, J.)