

**IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE**

Present:

The Hon'ble Justice Sugato Majumdar

**CS/25/2017
IA NO: GA/1/2017(Old No: GA/3377/2017),
GA/3/2017(Old No: GA/3427/2017)**

**JET SETTERS LTD.
VS
RAKSHAMATA COMMOTRADE PVT LTD & ORS.**

For the Defendant No.1 : Mr. Rishabh Karnani, Adv.
Mr. Anurag Bagaria, Adv.

Hearing concluded on : 24.09.2026

Judgment on : 01.10.2026

Sugato Majumdar, J.:

This is a suit of claim and counter-claim.

The Plaintiff filed the suit under Order XXXVII of the Code of Civil Procedure, 1908 praying for a decree for a sum of Rs.5,42,41,000/- along with interest and consequential reliefs.

The plaint case may be summarized as follows:-

- a) The Plaintiff is engaged in the business of travel agency, having its registered office at 181A, Chittaranjan Avenue, Kolkata – 700007 within the jurisdiction of this Court. The Plaintiff is a company registered under the Companies Act, 1956.

- b) The Defendant No. 2 is an acquaintance of one of the Directors of the Plaintiff Company. Since the Defendant No. 2 represented the Plaintiff that his business had been suffering from financial crisis, he was in urgent requirement of some fund.
- c) On representation of the Defendant No. 2, the Plaintiff company advanced a sum of Rs.8,93,50,000/- to the Defendant Nos.1,2,3 and 4 in terms of different transactions. The Plaintiff lent Rs.4,31,50,000/- to the Defendant No.1; Rs.1,82,50,000/- to the Defendant No.2; Rs.1,80,00,000/- to the Defendant No. 3 and Rs.50,00,000/- to the Defendant No.4. A further sum of Rs.50,00,000/- was lent to the Defendant No.2 on 08/03/2014.
- d) It was further agreed that the property owned by the Defendant No.1 located at 2, Gagan Sarkar Road, Kolkata – 700010 would be sold to the Plaintiff for a consolidated amount of Rs.4,00,00,000/-. A Board Resolution of the Defendant No.1 company dated 30/12/2013 had been handed over to the Plaintiff.
- e) The Plaintiff was handed over nine title original deeds of the property at 2, Gagan Sarkar Road, Kolkata – 700010 through the Defendant No.2 as collateral security.
- f) That the Plaintiff had been paid a sum of Rs.20,00,000/- only from the account of the Defendant no.5. This apart, the Defendants handed over various cheques to the Plaintiff towards refund of the money lent. The Defendants requested the Plaintiff not to encash the said cheques. On request the Plaintiff did not deposit the cheques

and those became stale. However, according to the Plaintiff, handing over cheques testified existence of liability to repay debt.

- g) The Defendant No. 2 also represented that interest at a rate of 2% per month would be charged on the money lent.
- h) It is also in the pleading that the Plaintiff had no other commercial transaction with the Defendants prior to this and that the Plaintiff was not engaged in any business of money lending.
- i) Since the Defendants neglected and failed to repay the loan, the Plaintiff instituted the suit for recovery of the outstanding amount of money.

The Defendant No.1 contested the suit by filing written statement with counter claim. The sum and substance of the written statement may be summarized herein below:

- i. The Defendant No.1 is a closely held family company of the Defendant No.2. In the month of September, 2014, the Defendant No.1 along with the family members sold and transferred the shares of the family members to Manoj Kumar Tiberwals and his family members.
- ii. On and from 01/09/2014, the Tiberwals came in control and management of the Defendant No.1.
- iii. Prior to share transfer, it was represented to the Tiberwals that for saving tax, money had been transferred from time to time to the Plaintiff and the companies and entities held by the Saraf family, the

erstwhile controlling members of the Defendants. In course of such arrangement, in the month of December, 2013, a sum of rupees two crores had been paid by the Plaintiff to the Defendant No.1. The last payment was made by the Defendant No.1 to the Plaintiff on 06/08/2014. It was further represented that there should be no liability by either the Plaintiff or the Defendant No.1 in respect of such transfer of funds.

- iv. It is further contended that the Plaintiff agreed to purchase the property at 2, Gagan Sarkar Road, Kolkata-700010 at Rs.4,00,00,000/- and paid Rs.2,00,00,000/- only. The Plaintiff admittedly retained the nine title deeds of the said property.
- v. The Defendant No.1, by way of counter-claim, has sought for mandatory injunction directing the Plaintiff to return the aforesaid nine title deeds, particulars of which are given in Para. 39 of the counter-claim.

Initially, the suit had been decreed against the Defendant in terms of the Order dated 21st November, 2017. Subsequently, the Defendant appeared and filed application praying for leave to defend. The Defendant No.1 filed counter-claim and the Plaintiff was given opportunity to file additional written statement against the counter-claim. But the Plaintiff failed to appear and file additional written statement. The plaint was subsequently dismissed for default for non-appearance of the Plaintiff and the counter-claim was allowed to be heard *ex parte* in terms of the order of this Court dated 7th November, 2025.

The Defendant adduced evidence to show that the Tibarwals purchased the shares of the Defendant No.1. It is admitted in the plaint itself that nine original title

deeds of the property in question, namely, property at 2, Gagan Sarkar Road, Kolkata – 700010 had been deposited with the Plaintiff. It was also averred that the Plaintiff paid Rs.2,00,00,000/- out of Rs.4,00,00,000/- of consideration money for purchase of the said property. Since the Plaintiff did not pursue their claim, all the claims are now deemed to be abandoned by the Plaintiff. Since the Plaintiff abandoned their claim in respect of that Rs.2,00,00,000/- and since statutory period has expired to claim that the same need not be considered further.

As stated above, the admitted position is that the original title deeds are kept with the Plaintiff. On the basis of admission the suit can be decreed.

It is ordered that the Plaintiff is directed to hand over the nine original title deeds mentioned in Para.39 of the written statement within 30 days from drawing up of the decree in case of default the Defendant shall be at liberty to draw up execution proceeding.

The instant suit stands disposed of accordingly.

Let the decree be drawn up.

(Sugato Majumdar, J.)