

ORDER SHEET

IA NO. GA/1/2025
IN
CS/24/2025

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

JAI MATADI PLAZA PRIVATE LIMITED
VS.
NISHI TRADERS PVT. LTD. AND ORS.

BEFORE:
The Hon'ble JUSTICE ARINDAM MUKHERJEE
Date: 29th July, 2026.

Appearance:
Mr. Aniruddha Mitra, Sr. Adv.
Mr. Debraj Saha, Adv.
Mr. Hareram Singh, Adv.
Mr. Saptarshi R. Chatterjee, Adv.
For plaintiff
Mr. Rachit Lakhmani, Adv.
Mr. Ravi Ranjan Kumar, Adv.
For defendant nos. 1 to 4

The Court : In a suit for recovery of money lent and advanced, the plaintiff has taken out an application under the provisions of Order XII Rule 6 of the Code of Civil Procedure, 1908 (in short CPC).

In course of hearing it is the submission of the plaintiff that the plaintiff has been advised that this suit is required to be framed and filed as one under the Commercial Courts Act, 2015 (in short 2015 Act) as the plaintiff's cause of action arises from out of a commercial dispute and not as a suit under the ordinary original civil jurisdiction as has been done.

The defendants submit that this is also their argument that the suit

has to be one under the 2015 Act which is one of the main defence of the defendants against the plaintiff's application for judgment on admission.

Since the plaintiff itself wants the plaint to be returned for being filed as a suit under the 2015 Act before the appropriate forum, there can be no objection from the side of the defendants at this stage. The provisions of Order VII Rule 10 of the CPC has been made applicable to this Court after the amendment in 1974 and as such there can be no embargo on the plaint being returned.

In the aforesaid facts and circumstances, the suit is treated as on day's list by consent of the parties and the plaint is directed to be returned with the court fees with leave to file on the self-same cause, if otherwise permissible in law by using the Court fees, if there is no embargo in doing so. The return of the plaint should be done after completion of all formalities within a period of three weeks from date. Once the plaint is returned, the suit number should be de-registered from the data base of this Court so that the suit is not shown to be pending in the Ordinary Original Civil Jurisdiction of this Court.

Since the plaint is directed to be returned, the pending applications are disposed of without any further order with liberty to file afresh on the self-same cause, if otherwise permissible in law.

(ARINDAM MUKHERJEE, J.)

Sb/