

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
COMMERCIAL APPELLATE DIVISION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**AD-COM 5 of 2026
with
IA No.: CAN 1 of 2026
M/s. RID
Vs.
Bishnu Narayan Konar & Ors.**

With

**FMA 556 of 2026
with
IA No.: CAN 2 of 2025
M/s. RID
Vs.
Bishnu Narayan Konar & Ors.**

For the Appellant : Mr. Mohit Gupta, Advocate
Mr. Sanjib Mitra, Advocate
Ms. Sarbani Chakraborty, Advocate
Ms. Cardina Roy, Advocate

For the Respondents : Mr. Chittapriya Ghosh, Advocate
Ms. Priyanka Saha, Advocate

Hearing & Judgment on : **August 4, 2026**

DEBANGSU BASAK, J.:-

1. Two appeals are directed against a judgment and decree dated March 12, 2025 passed in Money Suit (Commercial) 14 of 2024 by the learned

Commercial Court at Asansol. Appeal being AD-COM 5 of 2026 is directed against rejection of the claim of the plaintiff. Appeal being FMA 556 of 2026 is directed against the counter-claim which was allowed by the impugned judgment and decree.

2. So far as the appeal directed against the rejection of the claim of the appellant is concerned, we find that, there is a delay in preferring the appeal. However, since one impugned judgment and decree is involved and since we are of the view that, the appellant was not at fault in not preferring the appeal, we deem it appropriate to condone the delay in making and preferring the appeal.
3. The application for condonation of delay being IA No.: CAN 1 of 2026 in AD-COM 5 of 2026 is allowed.
4. By the impugned judgment and decree, the learned Trial Judge allowed the counter-claim of the respondents after rejecting the claim of the appellant.
5. We heard learned Advocates for the respective parties in extenso.
6. We find that, the impugned judgment and decree proceeds on the basis of Exhibit-G. We are of the view that, Exhibit-G was not adequately tendered in evidence. Moreover, according to us, evidence with regard to the quantum specified in Exhibit-G was not adequately proved at the trial.
7. Since the fulcrum of the impugned judgment and decree is Exhibit-G, we deem it appropriate that, we set aside the impugned judgment and decree

and remand the suit along with the counter-claim to the learned Trial Judge limited to Exhibit-G.

8. We are informed that, Exhibit-G was introduced at the trial by the Defendant Witness No.2. The respondents before us as the defendants are at liberty to recall the Defendant Witness No.2 for examination limited to Exhibit-G. Appellant before us as the plaintiff is at liberty to cross-examine Defendant Witness No.2 not only of Exhibit-G but also of other evidence given at the behest of the defendants at the trial.
9. Appellant deposited the decretal amount of Rs.10,58,900/- in this Hon'ble Court as the security in the appeals preferred by it.
10. Since we are remanding the suit and the counter-claim for a limited point as noted above, we direct that the security so deposited by the appellant before us will continue to remain with the learned Registrar General for a period of 18(eighteen) months from date.
11. Learned Registrar General is requested to keep the amount in a Fixed Deposit with any nationalized bank, if not already kept.
12. Learned Registrar General will renew the Fixed Deposit from time to time, as the case may be.
13. On expiry of the period of 18 (eighteen) months from date, in the event, the suit is not disposed of or no decree is passed as against the appellant, then the appellant is at liberty to apply for withdrawal of the security.
14. **AD-COM 5 of 2026** and **FMA 556 of 2026** along with **IA No.: CAN 2 of 2025** are **disposed of** without any order as to costs.

15. Trial Court records be sent down to the jurisdictional Court forthwith.

(Debangsu Basak, J.)

16. I agree.

(Md. Shabbar Rashidi, J.)

(AD)

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