

19 CS (COMM.) 440/24

M/S Beycomp Electronics Pvt. Ltd. Vs. M/S Infinity E Services Pvt. Ltd. And Anr.

06.08.2025 (At 11:53 AM)

Present : Sh. Udai Ram Sharma, Ld. Counsel for the plaintiff.

Sh. Sunny Vashisht, Ld. Counsel for the defendant.

1. One application under Section 114 CPC for review of order dated 20.03.2025 was filed. However, thereafter another application under Order VI Rule 17 CPC was also filed for amendment of aforesaid application. Another application under Order IX rule 7 CPC was also filed seeking to set aside order dated 20.03.2025. All these applications were filed online on 15.05.2025. Today hard copy of these application filed and copy of same supplied to ld. Counsel for the plaintiff today itself.

2. Submissions heard.

3. Application under Section 114 CPC was not maintainable. This is so acknowledged by ld. Counsel for the defendant. Therefore, subsequent applications were filed. Hence, application under Section 114 CPC has to be dismissed being not maintainable.

4. When application under Order IX rule 7 CPC was being filed then there was no occasion for filing another application seeking amendment of previous application. Hence, application under Order VI Rule 17 CPC is also dismissed.

5. Through application under Order IX rule 7 CPC, defendant seeks to set aside of exparte order dated 20.03.2025 on the ground that counsel for defendant did not appear before the Court because he had noted wrong date of hearing. One unattested

affidavit in support of such application has been filed from Sh. Sant Saran, Advocate. This affidavit cannot be given any attention for apparent reasons, that it is not attested affidavit. Secondly apart from this affidavit nothing has been placed on the record to support the plea that the counsel for the defendant actually noted down wrong date. No factual matrix has been pleaded to show that what date was actually noted down by the counsel for defendant. No copy of the diary of the counsel has been attached with the application to support such contention. Therefore, there is no occasion for me to even examine those factual matrix and to ascertain reliability of given reasons. Moreover, on 20.03.2025, this Court recorded that the Statement of Truth filed along with written statement was not in accordance with law and this Court fixed the matter for plaintiff's evidence. Such order of the Court was passed on the basis of legal requirements in respect of filing of written statement in a Commercial Suit. In the case of **ONGC Vs. Planetcast Technologies**, 2023:DHC:9473-DB, the Division Bench of Hon'ble High Court of Delhi, made it well clear that Statement of Truth is integral part of the pleading and same being defective, the aforesaid pleading of defendant is treated to be as defective and as instance of non-est filing.

6. The net result was written statement could not have been treated as a valid written statement and even if defendant's counsel would have appeared, no difference would have been there in respect of aforesaid position. Hence, I do not find any occasion and valid reason to set aside the order dated 20.03.2025 because the extension of time for the purpose of filing written

statement cannot be extended beyond 120 days (reference **SCG Contracts India Pvt. Ltd. vs. K.S. Chamankar Infrastructure Pvt. Ltd. & Anr. AIR 2019 SUPREME COURT 269**). Hence this application is rejected.

7. Copy of affidavit of witness of plaintiff has been supplied to counsel for the defendant today. On next date, this witness shall tender his affidavit and he shall be cross-examined.

8. Put up on **21.08.2025**.

Pulastya Pramachala
District Judge (Commercial Court)-01
Patiala House Court, New Delhi.
06.08.2025