

17CS (COMM.)536/21 -1/3-
M/S KOHLI ONE HOUSING AND DEVELOPMENT PVT
LTD Vs.M/S SALUJA CONSTRUCTION COMPANY LTD
10.12.2021

Present : Sh. Piyush Gupta, Ld. Counsel for the plaintiff.

An application filed under order VI rule 17 CPC on behalf of plaintiff for amendment of plaint and statement of truth. Suit is at initial stage and summons has still not been issued to the defendants. In the interest of justice, application allowed. Amended plaint and statement of truth taken on record.

Heard. It is a suit for recovery filed against the defendants wherein the non starter report issued by DLSA has been filed about failure of pre-institution mediation. As per pleadings the main transactions were between plaintiff company and the defendant no. 1 company. Defendant no. 2 to 7 are the directors of defendant no. 1 who have been impleaded in their personal capacity. It is submitted that by learned counsel that defendant no. 2 to 7 being the directors of defendant no. 1 are responsible for day to day affairs of defendant no. 1 and therefore, they have been impleaded. In my view, the submission is misconceived and contrary to the legal provisions. A company is a juristic person which work through its directors / officers and every person associated with it can not be impleaded in a suit unless there is a specific cause of action against the director / officer in his personal capacity.

In my view, defendant no. 2 to 7 are not the necessary parties in the suit and a effective decree may be passed

even in their absence. Let defendant no. 2 to 7 be deleted from the array of parties. Amended memo of parties be filed within three days by way of hard copy.

Issue summons for settlement of issues to the defendant no. 1 by all permissible modes i.e. on filing of PF/RC/Speed Post/Courier/E-mail and FAX etc. E-mail address and FAX number of defendants be furnished by plaintiff along with the process. Process be filed within seven days.

In case plaintiff wants service through email/FAX/Whatsapp, plaintiff is required to file the affidavit in this regard about the correctness of contact details of defendant and the said affidavit may be filed along with process and the soft copy of complete paper book in PDF format must be given by way of email or otherwise.

Directions:

1. service of defendant;
2. written statement along with statement of truth, affidavit of admission and denial of documents; list of documents as well as the documents be filed by defendant in the form of hard copy, within 30 days from the date of service of summons by giving advance copy to the opposite party;
3. replication be filed by plaintiff within 45 days of receipt of written statement, if any, in the form of hard copy by giving advance copy to the opposite party/counsels.

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Put up for 24.01.2022.

Copy of order be sent to the defendants along with summons.

**SANJEEV JAIN
District Judge (Commercial Court)-01
Patiala House Court, New Delhi.
10.12.2021**

Certified that the hearing through video conferencing was smooth and audible to the counsel as well as the court.

**SANJEEV JAIN
District Judge (Commercial Court)-01
Patiala House Court, New Delhi.
10.12.2021**

Note: e-mail id of court is **readerdjcomm01@gmail.com**.