

CS No.731/2017

ASHOK KUMAR SONI VS. M/S BESTECH INDIA PVT. LTD.

04.10.2018

Present: Sh. Arun Saxena, Id. Counsel for plaintiff.

Ms. Surbhi Diwang, Id. Counsel for defendant.

Replication filed. Copy supplied.

From the pleadings of the parties, following issues are framed:-

- (i) Whether the suit of the plaintiff is barred by time.? OPD.
- (ii) Whether this court has no territorial jurisdiction to try and entertain the present suit? OPD.
- (iii) Whether the suit of the plaintiff is bad for non-joinder/mis-joinder of necessary party? OPD.
- (iv) Whether the suit has been properly valued for the purposes of court fees? OPD.
- (v) Whether the plaintiff is entitled to recover an amount of Rs.41,59,000/- as claimed in the plaint? OPP.
- (vi) Whether the plaintiff is entitled to interest. If so, at what rate? OPP.
- (vii). Relief.

No other issues arises or is pressed for.

List of witnesses be filed by both the parties.

Both parties have agreed that Local Commissioner be appointed to record the evidence. Sh. Neeraj Kumar Gupta, Ld. District Judge (retired), {Mobile No. 9910384632} is hereby appointed as Local Commissioner for recording the evidence. The terms of the assignment are as under :

1. Judicial file will not be sent for recording of the evidence by the Local Commissioner.
2. The evidence shall be recorded in the Patiala House Court complex at the place convenient to the parties as well as Ld. Local Commissioner.
3. Ld. Local Commissioner shall administer oath to the witness under examination as per the Oaths Act.
4. The evidence shall be preferably typed on a paper or in case of non availability the same shall be neatly hand written.
5. Ld. Local Commissioner shall comply with the provisions of Order 18 Rule 4 CPC while recording the evidence of the witness.
6. The documents shall be exhibited but in case of any objection to the exhibition of documents by the either side the same shall be recorded by the Ld. Local Commissioner.
7. On the request of Ld. Counsel, cross-examining the witness, portions of deposition may be recorded in question-answer form.
8. All the objections raised during corss-examination/re-examination shall be recorded in the deposition under title objections and shall be left open for the decision of the Court at the stage of final arguments. Witness shall not refuse to the answer the question raised.
9. In case Ld. Local Commissioner finds any question not related to the fact and issue, he shall record his objection but shall allow the question to be put and witness must answer.
10. Remuneration fee for recording of evidence is fixed at Rs.2000/- per hour or Rs.5000/- for a 3 hours session, whichever is less. The

same will be paid by both the parties for their respective witnesses and shall not include the cost of typing, hiring of a stenographer and supply of copy of deposition. The Stenographer be arranged by Ld. LC, and the actual cost of typing shall be paid by both the parties to Ld. L.C.

Parties are directed to appear before Ld. Local Commissioner on 01st of November 2018 for recording of evidence. The Ld. Local Commissioner may fix other date/s of recording of evidence in consultation with the parties, in case the recording of evidence is not concluded on 01st of November 2018.

Now to come up for awaiting report of Ld. Local Commissioner and for further proceedings on 30.11.2018.

Advance copies of the evidence by way of affidavit be supplied to opposite parties at least seven days prior to next date of hearing before Ld. Local Commissioner.

It is made clear that in case parties failed to lead evidence or cross-examine the witnesses before the Ld. Local Commissioner on the date fixed before him, their respective rights to do so shall be deemed to be closed.

A copy of the order be supplied to parties.

(Praveen Kumar)
ADJ-05/PHC, NEW DELHI
04.10.2018