

IN THE COURT OF MS. TWINKLE WADHWA: LD. ADDITIONAL DISTRICT JUDGE-
03:PATIALA HOUSE COURT:NEW DELHI DISTRICT

CS No. 1155/18

Prakash Borthers VS Kapoor Book & Stationary Company Pvt Ltd & ors.

10.12.2018

Fresh suit u/O 37 received by way of assignment. It be checked and registered.

Present: Ld. Counsel for the plaintiff.

Arguments heard on summoning.

The present is a suit for Rs. 5,77,585/- which is claim in the suit is based ledger account, hence it is not a liquidated amount.

Ld counsel has drawn attention to this Court a letter dated 21.11.2018. However exact amount is not mentioned in the said letter, hence as the exact amount is not a liquidated amount, the present suit u/O 37 CPC is not maintainable. **Hence, this suit is converted into an ordinary suit.**

Arguments heard on the application u/Sec 151 CPC for seeking exemption for filing original ledger book. It is submitted that ledger book is running into 500 pages. Hence, he may be exempted from filing original and he will produce the original as and when directed. Heard.

In view of the submissions made, application is allowed.

I have gone through the plaint and I am per se satisfied that this suit is within territorial and pecuniary jurisdiction of this Court and is also within limitation at this stage. The suit has been properly valued for the purpose of Court fees and jurisdiction and appropriate Court fees duly stand paid. The suit does not suffer from any apparent defect warranting its rejection at this juncture.

Part I-Issuance of Summons/Notice- Issue summons of the suit and notice of the application on filing of PF within Three (3) to seven (7) days as per (O.5 r.9 CPC) through:

1. Process Server.
2. Registered post.
3. Speed Post.
4. Authorised courier.

Scan of the summons issued by the Court, soft copy of plaint and the annexures be sent to the available email IDs of the defendant/s.

Contd...2/-

Part II- Timely Service by Nazarat- Incharge Nazarat Branch is hereby directed to ensure that the processes issued shall be executed and served preferably within one week (7 days) but not later than 15 days.

Part III- Fixation on Refusal- In case the defendant refuses to accept the service or is not found available despite Three (3) mandatory visits, Process Server shall affix the summons at a conspicuous place of the defendant's address and leave the copy of plaint and annexures there as per O.5 r.17 CPC alongwith affidavit of service.

Incharge Nazarat Branch shall ensure that the served/unserved/affixation report shall reach the Court within outer limit of 15 days as per O.5 r.18 CPC.

Part IV- Service Report Form to be filled by Ld. Counsel- Ld. Counsel for plaintiff shall inspect the Judicial File on the 15th day of the filing of PF. He shall fill the Service Report Form (SRF) available on the file. The Tracking Report of registered post, speed post, courier and email service proof be also filed at the time of inspection of record. Ahlmad of the Court shall also fill this SRF qua service position.

Left without Address Report- In case the defendant is reported to have left without address, then fresh process be issued at the fresh address if any available with the plaintiff on new PF. In case no other address is available, then defendant be served by way of affixation at the last available address on new PF to be filed within 7 days of inspection of the file.

Part V- Substituted Service- In case no service is effected upon the defendant for any reason and ld. Counsel for plaintiff deems fit that service needs to be effected by substituted means he shall move an application within one week of receipt of unserved process.

Part VI- Timely Filing of Written Statement under Order 8 CPC- In case of due service of summons of the suit, defendant shall file Written Statement within 30 days of receipt thereof. Advance copy of Written Statement shall be sent to the plaintiff by registered post/courier and email, if any.

Contd...3/-

In case no Written Statement is filed by the defendant within 30 days and no extension of time is sought, then the Court may pronounce judgment under O.8 r.5 and O.8 r.10 CPC.

Service of Incomplete Plaint- In case defendant finds that the paper book of the plaint received by him is incomplete or illegible, he/she shall move an interim application before Court within 7 days instead of waiting for the next date. No such plea shall be entertained thereafter.

Part VII- Replication, if any,- Plaintiff may file replication, if any, within 15 days of receipt of Written Statement. Plaintiff shall serve the copy of the replication upon the defendant through registered post/courier and email, if any.

Part VIII- Parties to file only Attested Photocopies not original documents- Both the parties are advised to file only self attested copy or print outs of documents relied and shall retain the original documents with them in their respective custody. Original documents shall be produced only at the stage of framing of issues, at the time of evidence and final arguments.

Part IX- Admission/Denial by Affidavit in Given Format- Both the sides are directed to file a separate affidavit qua Admission/Denial of each or every document filed alongwith the pleadings in the annexed format, before the date of framing of issues. It is clarified that the admission/denial shall be done on the basis of self attested copies and the same shall be subject to production of original at the time of framing of issues.

CS No. _____
_____(Plaintiff) V/s. _____(Defendant)
AFFIDAVIT FOR ADMISSION/DENIAL OF DOCUMENTS
I, _____ S/o/AR of _____ R/o _____
_____, do hereby solemnly affirm and declare as under:

S.No.	Description of document filed by the opposite party	Page No. in Paper Book	Remark (*)

* Admitted/Denied/Partly admitted/Only signatures admitted, Content denied (any other reason/please specify)

Deponent

Verification:

Verified at Delhi on this _____ day of _____ that the contents of my affidavit are true and correct to my knowledge and no part of it is incorrect and nothing material has been concealed therefrom.

Deponent

Contd..4/-

Part X- File Interim Applications before hearing- In case either of the parties is desirous of moving an interim application, they shall do so in between the date of hearings by serving advance copy to the other side by registered post/courier and email, if any. Such application shall be heard and disposed within one week of receipt of such application once both parties appear.

Framing of Issues- Upon completion of pleadings issues would be identified on law as well as facts while placing specific onus on the parties to prove them as per Order 14 CPC.

Referral to Mediation/Lok Adalat- Upon completion of pleadings, parties would be given an option to go for ADR (Viz. Arbitration, Mediation and Lok Adalat) as per Section 89 CPC.

Recording of Evidence by LC- In case no settlement is arrived at then the evidence would be recorded either by the Court or by Ld. Local Commissioner/Advocate appointed or empaneled with DSLSA/DLSA in terms of **Order 18 Rule 4 CPC, Rameshwari Devi Case and Salem Bar Association Case** of Hon'ble Supreme Court.

Hearing of Final Arguments- Upon completion of recording of evidence in the Court or before LC within 60 days or such extended period case shall be taken up for final arguments within 15 days of completion of evidence followed by passing of judgment.

Copy of this order be sent to defendant alongwith summons of the suit.

Now to come up for service, completion of pleadings and disposal of miscellaneous application, if any and framing of issues on date **18.03.2019**.

(Twinkle Wadhwa)
ADJ-03/PHC/NEW DELHI.
10.12.2018