

CS DJ 705/2015

M/s Shiv Raj International P. Ltdv. M/s Patel Engineering Ltd & Ors.

14.01.2021

Present: Ms. Ananya, counsel for the plaintiff.
Sh. Ritesh Chaudhary, counsel for defendant No. 1.

In compliance with the direction issued by the Hon'ble High court of Delhi, conveyed through Judl./Circular/F.43/South East/Saket/2020/15508-15585 dated 24.12.2021 wherein it has been directed that court shall take up all cases of the cause list through physical hearing as per duty roaster, hence, the matter is taken up today through physical hearing.

Pleadings are complete.

From the pleadings of the parties, following issues have been framed:

1 Whether there was any agreement between the parties that cost of one side of transportation or any side of transportation of transit mixers is to be borne by Defendant No. 1? **(OPP)**

2 Whether the Plaintiff was abide by the stipulation clause 1 contained in the Work Order dated 20.08.2009 i.e. "the transit Mixers" offered shall be in good condition. All types of repairs, preventive maintenance and were cleaning, washing of the transit mixer's shall be responsibility of the contractor? **(OPP)**

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3 Whether the plaintiff company was abide by clause 1 after letter dated 04.09.2010 (Annexure D1) **(OPP)**

4 Whether the transit mixers reached on site on 20.08.2009 or on 22.08.2009? **(OPP)**

5 Whether the plaintiff raised the bills without adjusting the period of which the transit mixers were off the road due to breakdown? **(OPD)**

6 Whether the plaintiff raised the bill without adjusting the expenses incurred by Defendant for repairs and maintenance of the plaintiff's transit mixers? **(OPD)**

7 Whether any money of the Plaintiff is due and payable by the defendant? **(OPP)**

8 Whether Defendant was liable to pay any taxes including service tax as applicable? **(OPP)**

9 Whether the plaintiff is entitled for a decree of recovery of a sum of Rs. 34,05,918.74P (Rupees Thirty Four Lakhs, Five Thousand Nine Hundred Eighteen and Seventy Four Paise only) against the defendants (jointly and severely) and in favour of the plaintiff.? **(OPP)**

10 Whether plaintiff is entitled for decree of mandatory injunction in favour of plaintiff and against the defendant directing the defendants to pay and deposit the service tax or any other tax so levied

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by the statutory authorities alongwith interest, fine, penalties and damages etc.? (OPP)

Relief.

No other issue has been arised/pressed.

List the case for plaintiff evidence.

Plaintiff shall lead evidence byway of affidavit by serving an advance copy upon the defendants alongwith list of witnesses.

Defendants are also directed to file list of witnesses by serving an advance copy upon the plaintiff.

Now to come up for PE on **13.04.2021**.

(Neelam Singh)
ADJ-02/SE/Saket/New Delhi
14.01.2021