

7 CS DJ 835-21

DIVYANSH INFRATECH PRIVATE LIMITED Vs. CITY PRIDE
BUILDCON PRIVATE LIMITED

04.10.2023

Present:- Sh. Rahul, proxy counsel for Ms. Yashmeet Kaur, Ld.
Counsel for plaintiff.

Sh. Anil Kumar Pathak, proxy counsel for Sh. Nalen
Tripathi, Ld. Counsel for defendant.

Today, the matter is listed for application under Order VIII Rule 1 A(3) C.P.C. for filing of additional documents by the defendant. Ld. Counsel for the defendant submits that at the time of filing of WS, the accountant of the defendant company was not available due to personal reasons and as such the documents could not be filed with the WS. He submits that he had filed the documents with the list of documents on 15.12.2022. However, an application was filed earlier but was withdrawn by the defendant due to technical defects in the said application and the present application came to be filed on 31.08.2023. He prays that in view of the same, the present application be allowed and the documents be taken on record.

Ld. Counsel for plaintiff fairly submits that the application may be allowed subject to cost as the matter is dragging on this issue for quite some time.

Heard. Perused.

In view of the submissions made and no objection by the plaintiff, the present application is allowed and the documents filed along with the list of documents are taken on record subject to cost of Rs. 2000/- to be paid to the plaintiff.

At this stage, affidavit of admission denial to the documents taken on record today, has been filed by Ld. Counsel for plaintiff whereby plaintiff has denied all the documents. Perusal of the

record shows that the documents of both the parties have been denied by the opposite side.

In view of the same, admission denial is concluded. I have gone through the pleadings of the case and based upon that following issues are framed.

1. Whether the present suit is a commercial dispute as defined by Section 2 of Commercial Courts Act and therefore covered by the Commercial court Act? OPD
2. Whether the plaintiff is entitled to an amount of Rs. 65,74,065/- as prayed along with the quantum of interest, if any? OPP
3. Whether the suit of plaintiff is non maintainable being barred by law of limitation? OPD
4. Whether the suit is bad for misjoinder and non-joinder of necessary parties? OPD

No other issue arises or pressed for.

Issue no. one being of preliminary nature will be treated as a preliminary issue. Both the parties submits that they do not wish to lead any evidence on the preliminary issue as it is a legal issue and will straightaway advance arguments on the same.

List for arguments on preliminary issue on **02.11.2023**.

(Rahul Bhatia)
ADJ-1 (South-East), Saket Court
New Delhi/04.10.2023