

CS 540/22

RUMA AND ORS Vs. BSES YAMUNA POWER LIMITED
AND ANR

14.10.2023

Present: Sh. Mahender Kumar, Ld. Counsel for the plaintiff.
Ms. Ritu Gupta, Ld. counsel for defendant No.1,
through VC.
Sh.M.I. Siddiqui, Ld. Counsel for the defendant
No.3.
Sh. Mahabharat Yadav, Ld. counsels for defendant
No.4/Insurance Co.
Sh.N.K.Chauhan,Ld. counsels for defendant No.4
/Insurance Co., through VC.

Fresh vakalatnama filed on behalf of defendant
No.4. The same be taken on record.

Ld. counsel for plaintiff has filed a second
application under Order VI Rule 17 CPC thereby seeking revert
back of the changes sought in the pleadings made in the plaint by
the plaintiff pursuant to the first amendment application moved
on behalf of plaintiff.

On this, neither of the defendants have any objection
to the same, however, Ld. counsel for defendant No.1 submits
that there are some allegations levelled by the plaintiff against
defendant No.1 by way of his present amended plaint, for which
the defendant No.1 may be given liberty to file additional written
statement to controvert the said allegations.

In view of the above, the instant application under
Order VI Rule 17 CPC is allowed and accordingly, the amended
plaint filed by the plaintiff alongwith the instant application,
alongwith amended memo of parties, are taken on record.

Plaintiff submits that since SHO of PS Harsh Vihar
has already filed Challan in the criminal proceedings relating to

the transactions in question in the present case, therefore, he has no claim against defendant No.2. Accordingly, plaintiff is directed to file amended memo of parties by deleting defendant No.2, being SHO PS Harsh Vihar, North-East, Delhi.

Ld. counsel for defendant No.4 has moved an application under Order IX Rule 7 CPC for seeking setting aside of the exparte order dated 02.05.2023 passed by the Ld. Predecessor of this court, on the ground that the summons were served at Nehru Place branch office of the defendant No.4 where no legal team is operating and the sales team sent the notice to the head office at Mumbai and from there the notice was sent to the legal team of defendant No.4 at Karol Bagh, Delhi, office, which was received by defendant No.4 on 09.05.2023 and the Ld. counsel was engaged on behalf of defendant No.4 on 10.05.2023.

In view of the above reasons, the application under Order IX Rule 7 CPC is allowed, subject to cost of Rs.500/- to be paid to the plaintiff.

Ld. counsel for defendant No.3 submits that vide order dated 02.05.2023, counsel for defendant No.3 has filed his memo of appearance on the said date, however inadvertently his presence could not be marked and even he was proceeded exparte. Ld. counsel for defendant No.3 orally submits that he may also be allowed to participate in the present proceedings by recalling the order of exparte against defendant No.3.

On perusal of the ordersheet dated 02.05.2023, it is clear that counsel Sh.Ajay, had appeared on 02.05.2023 and had also filed his memo of appearance on behalf of defendant No.3, but inadvertently it was noted on behalf of defendant No.1.

For the above reasons, the exparte order against defendant No.3 dated 02.05.2023 is also hereby set-aside.

Ld. counsels for defendants No.3 & 4 submit that they have not received the entire set of plaint alongwith documents. Plaintiff is directed to supply the copy of the plaint alongwith documents to defendants No.3 & 4 within a week from today. WS be filed by defendants No.3 & 4 within stipulated period on receiving the copy of plaint alongwith documents, with advance copy to the plaintiff. Ld. counsel for the defendant No.1 is also permitted to file additional written statement to the amended plaint with advance copy to the plaintiff.

Plaintiff is also directed to file replication, if any, with advance copy to the defendants within two weeks thereafter.

Put up for completion of pleadings/admission-denial of documents/framing of issues on **19.12.2023**.

(Ankur Jain-II)
Addl. District Judge-02, Shd District
KKD Courts Delhi/ 14.10.2023