

19.07.2019

Present : None for the parties.

Earlier parties have advanced their arguments on leave to defend application filed by the defendant.

Heard. Perused the record.

The present suit has been filed on the basis of settlement between the parties dt. 25.03.2015. There was part compliance of the settlement deeds by the parties except for the sum of Rs.7,50,000/-. The plaintiff has filed the suit on the basis of para 3 (iv) and settlement deed. Same is re-produced as under :

(iv) That the second party undertakes that all the above said cheques will be properly honored by his bank at the given date. In case if any of the cheque will dishonoured with any reasons then the second party will be liable for the double of the amount of the said cheque to the first party and the first party will have every right to recover the said amount by filing he criminal as well as civil cases against the second party.

According to this paragraph, the defaulter party have to pay the double, for the amount remaining unpaid. The plaintiff has filed a claim of Rs.14 Lakhs on the basis of aforesaid penalty clause contained in the settlement deed.

Summary suits cannot be filed with regard to penalty. The provision contained in Rule 1 (2) (b) (ii) of Order XXXVII CPC specifically bars the same.

Hence, the present suit is unfit for summary procedure and the same is ordered to be treated as ordinary one.

Defendant is directed to file written statement within one month from today. Advance copy thereof be also supplied to the counsel for plaintiff.

Subsequently, replication if any, be filed by the plaintiff by serving advance copy of replication to the counsel for defendant.

Put up for **replication, if any, admission denial of documents and framing of issues on 17.010.2019.**

(Shivaji Anand)
ADJ-02 (North): Rohini
Courts: Delhi: 19.07.2019