

**IN THE COURT OF MS.VEENA RANI :ADJ-06,**  
**WEST DISTRICT, TIS HAZARI COURTS, DELHI**

Civil Suit No:609244/2016

CNR No:DLTWT01-001169-2015

Sh. Rahul Malpani .....Plaintiff

Versus

M/s Topline Buildtech Pvt. Ltd. ....Defendant

**ORDER**

1. This order shall dispose of the application under Order 12 Rule 6 CPC moved by the plaintiff for passing judgment on admissions of facts. Briefly the facts for the disposal of this application are as under:-
  
2. As per the plaint the brief facts of the case is that plaintiff is a proprietary concern of Mr. Rahul Mapani and engaged in the business of plywood, block board, plush door, Laminates and decorative etch in the name and style of M/s S.R. Enterprises and defendant has been purchasing goods from the plaintiff the details of which have been given by the plaintiff in his plaint. It is stated that defendant purchased goods worth Rs.8604323/- from the plaintiff and issued various cheques which have bounced/dishonoured and despite repeated requests of the

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**Buildtech Pvt. Ltd.**

plaintiff the defendant has not paid the outstanding amount of Rs.46,87,173/- to the plaintiff. Hence, the present suit.

3. In his application under order 12 rule 6 CPC it is stated by the plaintiff that defendant made clear admissions that he had received the goods from the plaintiff but defendant tried to cover up the said admission by using the words that the goods supplied by the plaintiff are not of any use of defendant company as the same is not of goods quality, however, there has been no document supporting to the said bald assertions, therefore, plaintiff prayed for passing of judgment/decreed on the clear and unequivocal admissions of the defendant.

4. In their reply to the above application the defendant has denied that he has admitted the facts as alleged by the plaintiff in his application. It is denied by defendant that goods were supplied by the plaintiff as per the invoice from time to time and defendant failed to make the payment or that he has unequivocally admitted the factum of having received the goods. Defendant further denied that there has been clear admission of the fact that he had received the goods from the plaintiff and on such admission decree is liable to be passed against him as alleged by the plaintiff.

5. Heard. File perused.

6. The provision of order 12 rule 6 CPC is reproduced as under:

"(1) where admission of fact have been made either in the pleadings or otherwise, whether orally or in writing the court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admission.

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced."

7. From the provision of order 12 rule 6 CPC it is very much clear that in a case either in the pleadings or otherwise if the opposite party admits the claim or even part of claim, either orally or in writing, the court has power to pronounce the judgment on that admission. The judgment to be pronounced on admission requires that admission should be clear, unambiguous, specific and unequivocal. Judgment relied upon by Ld counsel for plaintiff also proves that for an admission on the part of order 12 rule 6 CPC to result in a judgment must be clear, unambiguous, specific and unequivocal.

8. In S.M. Asif v. Virender Kumar Baja (2015) 9 SCC 287 it was observed as follows:-

"8. The words in Order 12 Rule 6 CPC "may" and "make such order ..." show that the power under Order 12 Rule 6 CPC is discretionary and cannot be claimed as a matter of right. Judgment on admission is not a matter of right and rather is a matter of discretion of the court. Where the defendants have raised objections which go to the root of the case, it would not be appropriate to exercise the discretion under Order 12 Rule 6 CPC. The said rule is an enabling provision which confers discretion on the court in delivering a quick judgment on admission and to the extent of the claim admitted by one of the parties of his opponent's claim."

9. The alleged admissions in the written statement, relied upon by the Plaintiff, extracted above cannot be read in isolation. The written statement has to be read in entirety and other averments and defences raised in the written statement are required to be taken into consideration. The law dealing with judgments on admission under Order 12 Rule 6 is well settled. Only if there is unequivocal, clear and unqualified admission made in the pleadings, can the Court pass a judgment without giving an opportunity to parties to lead evidence.

10. In the present case the perusal of the WS reveals that the defendant has stated in para No.3 that the material / goods / plywood provided by the plaintiff was not of good quality and therefore after receiving the goods the defendant had requested the plaintiff to take away the said defective goods. However, the plaintiff did not take back the said allegedly defective material. The scope of the Order XII Rule 6 PCP covers the 'admission of claims' unequivocally. In commercial transaction the 'defective goods' is a defence and not an admission of that sort which could fall within the ambit of 'unequivocal admission of claims'. The applicant-plaintiff has also mentioned that the defendant has not adduced any document to establish that the goods were defective. The applicant-plaintiff has pointed out towards the need of evidence and that's where his own application under Order XII Rule 6 CPC fails. Whether the goods were defective or not is a triable issue. Both the parties will get the opportunity to prove the quality of the goods. The issue regarding defective goods have already been framed long back on 24-09-2016 and the case is at the stage of plaintiff's evidence.

11. This court is of the opinion that the quality of the goods / material supplied by the applicant-plaintiff but not found usable by the defendant is a triable issue which can only be decided after evidence is led by the parties. In the absence of their being any clear, specific, unequivocal

‘admission of claim’ on the part of the defendant, the application of the plaintiff u/o 12 rule 6 CPC is not maintainable, hence, same is liable to be dismissed.

12. For the reasons above-mentioned the application of the plaintiff under Order XII Rule 6 CPC is without any merit and is thus dismissed. Nothing contained in this order shall tantamount to an expression on the merits of the case.

Announced in the open court. ( VEENA RANI )

Additional District Judge-06,  
West District, Tis Hazari Courts, Delhi  
Judge Code : DL271/Date:14-10-2022

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14-10-2022

Present : Sh. Vishal Thakur, proxy counsel for the  
plaintiff.

None for the defendant.

Vide my separate order the application of the  
plaintiff under order 12 rule 6 CPC is dismissed. Now to  
put up for PE on 20-12-2022.

Announced in the open court. ( VEENA RANI )

Additional District Judge-06,  
West District, Tis Hazari Courts, Delhi  
Judge Code : DL271/Date:14-10-2022

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