

**IN THE COURT OF DISTRICT JUDGE-01
SOUTH-EAST DISTRICT, SAKET COURTS: NEW DELHI**

CS DJ 60-23

M/s. MERCADOS ENERGY MARKETS INDIA PVT LTD

(Through its M.D)

Office at:- A2, Second Floor,
Block-E, International Trade Tower,
Opposite Satyam Cinema,
Nehru Place,
New Delhi-110019.

.....Plaintiff

Vs.

SH. ANKUSH MISHRA

2, Durga Niwas Lake Road,
Saraswati School,
Tulshetpada, Bhandup,
West Mumbai,
Maharashtra-400078

Also At:-

103, Priyardarshini Building,
Kisan Nagar, Battwadi,
Thane, Mumbai-400604
Mobile No-8286952576

.Defendant

Date of Institution	:	31.01.2023
Date of Reserving judgment	:	04.08.2026
Date of Judgment	:	10.08.2026

EX PARTE JUDGMENT

1. The present suit has been filed by the plaintiff company through its Authorized Representative for recovery of an amount of Rs. 4,40,364/- along with damages against the defendant.

CASE OF THE PLAINTIFF:-

2. It is the case of the plaintiff that the defendant had applied for employment with the plaintiff company and was offered the post of Consultant-Policy and Regulatory in the Enterprise 'Consulting Vertical' vide offer letter dated 18.01.2022 which was duly accepted by the defendant on 19.01.2022. The defendant had joined the services with the plaintiff company at New Delhi office on 22.02.2022. It is further submitted that the defendant accepted the terms and conditions of the offer letter dated 18.01.2022 on 19.01.2022 through email and joined the duty with the plaintiff company at New Delhi office on 22.02.2022. The defendant accepted the service terms including the service conditions, notice period and other company policies. The plaintiff claims that considerable expenditure was incurred on the defendant's recruitment, training and induction. The plaintiff has further pleaded that after completion of training, the defendant abruptly stopped attending duties and sent an email dated 04.04.2022 at about 10.11 AM citing some unavoidable circumstances in his family and stated that due to the same he would not be available for at least two months. He requested the plaintiff company to consider the period as leave without pay. It is also submitted that the defendant sent another email at 10:13 AM stating that he had submitted all the belongings of the company to his Reporting Manager. It is further submitted that an Officer from the company of the plaintiff contacted the defendant on a telephonic call to know about the exact situation and the defendant replied that he was having an ailing relative who

was suffering from cancer and was residing in Varanasi and that the defendant was required to go with his relative urgently. It is further submitted that the Officer also asked him to submit the relevant medical documents for which such long leave without pay could be considered. However, despite repeated requests, the defendant failed to furnish the requisite medical documents and thereafter remained absent from duty without authorization. Thereafter, when the defendant was not giving any response on telephonic call, an email ID dated 21.04.2022 was sent to the defendant requesting once again to furnish the requisite medical reports and documents. It is also submitted that the HR of plaintiff company discussed with the defendant for leaving of the job all of sudden and the defendant stated that he was going through some mental health issues which contradicted with the reasons mentioned in the email dated 04.04.2022 sent by the defendant.

3. It is submitted that thereafter the defendant failed to comply with the terms of the appointment letter including the stipulated notice period which caused financial loss to the plaintiff. The plaintiff has claimed an amount of Rs. 4,40,364/- comprising of notice period salary and other alleged expenses. It is further averred that despite service of a legal notice dated 28.09.2025, the defendant neither replied to the notice nor paid the claimed amount.
4. As such, the plaintiff has filed the present case for recovery of an amount of Rs. 4,40,364/- along with damages against

the defendant.

5. Summons were issued to the defendant and defendant appeared through his counsel on 15.05.2023. Defendant filed an application under Order VIII Rule 1 CPC seeking condonation for delay in filing the written statement as well as application under Order VII Rule 11 CPC.
6. Vide order dated, 02.12.2023, application under Order VIII Rule 1 CPC was allowed and the written statement was taken on record. On the same date, application under Order VII Rule 14 was allowed and Ms. Urooj Fatma was substituted as the AR of the plaintiff.
7. Further, the defendant has also filed an application under Order VII Rule 11 CPC seeking rejection of plaint primarily on the ground of lack of territorial jurisdiction.
8. The said application was dismissed vide order dated 02.02.2024.

ISSUES:-

9. After completion of pleadings, vide order dated 12.03.2024, following issues were framed:-
 - (i) Whether the plaintiff is entitled to a recovery of an amount of Rs. 4,40,364/- as prayed? OPP.
 - (ii) Whether this Court has territorial jurisdiction to entertain the present suit? OPD.
 - (iii) Whether the suit is not filed by duly authorized person?

OPD.

(iv) Relief.

PLAINTIFF'S EVIDENCE"-

10. Thereafter, AR of plaintiff led his evidence as PW1 and relied upon the following documents:-

- (i). Substituted Board Resolution in favour of the present AR/ deponent as Ex.PW1/1 (OSR).
- (ii). Offer Letter dated 18.01.2022 as Mark A).
- (iii). Letter of acceptance of the appointment letter by the defendant dated 22.02.2022 is exhibited as Ex.PW1/3. (OSR).
- (iv). Letter of appointment dated 22.02.2022 is exhibited as Ex.PW1/4.
- (v). Email by defendant dated 04.04.2022 at 11:30 to the HR of the plaintiff company is exhibited as Ex.PW1/5.
- (vi). Email by defendant dated 04.04.2022 at 10:30 to the HR of the plaintiff company is exhibited as Ex.PW1/6
- (vii). Email by the HR of the plaintiff company dated 21.04.2022 at 01:07 to the defendant is exhibited as Ex.PW1/7.
- (viii). Legal notice dated 28.09.2022 to the defendant is exhibited as Ex.PW1/8.
- (ix). Postal receipts and proof of delivery are exhibited as Ex.PW1/9 (colly).
- (x). Certificate under Section 65 B is exhibited as Ex.PW1/10 (objected by Ld. Counsel for defendant as copy of the same has been supplied to her).

11. PW1 was cross examined by Ld. Counsel for defendant. In her cross examination, she deposed that she had a post graduate MBA and MCA degrees and joined the plaintiff company on 11.05.2023. She stated that the affidavit of evidence Ex PW1/A had been prepared by her counsel after due consultation and she had signed the same after going through its contents as well as the plaint and documents filed therewith. She further deposed that she had been duly authorized by the plaintiff company to appear and depose in the present case by virtue of board resolution Ex PW1/1. She further stated that three months notice period was to be given to go on leave without pay. She stated that email dated 06.09.2022 Ex PW1/DA was sent by plaintiff company. She further stated that emails at page no. 23 and 24 of the plaint were sent by the plaintiff which are Ex PW1/DB and Ex PW1/DC. She denied the suggestions that Ex PW1/DB and Ex PW1/DC were not exhibited as they were detrimental to the plaintiff's case. She said that the defendant had been paid salary for about two months i.e. February and March 2022. She said that defendant had resigned on 04.04.2022. She said that the same was evident from email Ex PW1/6 and another email of the same date whereby the defendant had sought leave without pay for a period of two months and had also submitted laptop, ID card and pen drive. She denied the suggestion that the defendant had never resigned from the plaintiff company and was directed to submit the above said articles by his superior. She said that legal notice Ex PW1/8 mentioned the expense incurred by the plaintiff in training, on boarding and induction of the defendant. She

said that the same also mentioned the legal expenses as well as damages and harassment faced by the plaintiff company. She denied the suggestion that the plaintiff company did not incur any expenses in training, on boarding or induction of defendant. She denied the suggestion that the plaintiff company did not face any harassment or damages as claimed. She denied the suggestion that the plaintiff company incurred any legal expenses. She denied the suggestion that by changing all passwords and stopping the salary of the defendant, the plaintiff company terminated the services of defendant. She said that the defendant was posted at Mumbai when he applied for leave without pay and the plaintiff company did not reject the defendant's request for leave without pay. She denied the suggestion that neither Mr. Ankush Mishra nor she had not been duly authorized to represent the plaintiff company and deposed on its behalf. She denied the suggestion that the plaintiff was not entitled to the reliefs claimed.

12. Thereafter, vide order dated 12.07.2024, plaintiff gave statement for closing PE.

DEFENDANT'S EVIDENCE:-

13. Thereafter, defendant has led his evidence as DW1 by filing of affidavit Ex DW1/1. He submitted that he was posted at Mumbai by the plaintiff company and during his entire tenure with the plaintiff company, he worked in Mumbai office only. He said that he had applied for leave without pay from the Mumbai office. He further stated that the

plaintiff company did not impart any training to him and as a result there was no occasion for the plaintiff company to invest or spent any money in training. He said that there was merely an induction session of just one and a half hour. He said that he had joined the plaintiff company as a Fresher and was a part of a team without any independent work or decision taking responsibilities. He said that he was told by his Reporting Manager to take leave without pay when he informed him about his family emergency and he was further instructed to submit all the company belongings. He stated that accordingly he deposited his laptop and pen drive to his Reporting Manager. He said that there was no objection from the plaintiff company when he deposited the said belongings. He further said that the plaintiff company did not reject his request for leave without pay. He further stated that he did not resign from the services of the plaintiff company. He further stated that there was constant harassment by the plaintiff company through incessant calls and emails which caused him mental stress, especially when he was going through difficult time. He further stated that the plaintiff company continue harassing despite having in effect, terminated him. He further stated that the plaintiff company did not adhere to the terms of appointment letter and had breached the same. He further stated that he had not suppressed any medical condition and that the plaintiff company was only trying to extort money. He said that he started working with the plaintiff company on 22.02.2022 and duly informed his reporting manager about his family emergency and only on his advise, he applied for leave

without pay on 04.04.2022. He said that he had not received any payment from the plaintiff company nor had the plaintiff company incurred any other expense in relation to his training or otherwise. He further stated that he did not get any confirmation from the plaintiff company about being a permanent employee. He stated that the plaintiff company did not suffer any loss due to him and that the claims of the plaintiff company were false.

14. During his cross examination, defendant stated that after he had applied to the plaintiff company for leave without pay through email dated 04.04.2022, he did not report back for duty. He said that he did not file any medical documents with regard to the medical condition of his relative for which he had to proceed on leave. He admitted that the plaintiff company had requested him through email dated 21.04.2022 to produce medical documents which he did not produce. He said that he joined the plaintiff company in Delhi on 22.02.2022 where he was giving induction training by the HR Department. He said that he was aware that he needed to serve notice period of three months before leaving the service of the plaintiff company as per terms and conditions of the employment. He voluntarily stated that he has not resigned from his employment but was terminated by the plaintiff. He stated that the company had only paid for his return airfare from Delhi to Mumbai after completion of induction program. He said that after sending email dated 04.04.2022, he did not send any email, letter, representation or communication with regard to his intent to join back his

duties with the plaintiff company. He denied the suggestion that since he was predetermined to leave the job at the plaintiff company to join elsewhere, he left the services of the plaintiff company at once and also submitted the belongings citing false and frivolous reasons regarding family issues. He denied the suggestion that since he had not worked for the notice period, he was liable to pay three months salary and expenses incurred by the plaintiff on his employment.

15. Defendant has closed his evidence vide order dated 31.08.2024.

16. Perusal of record shows that after leading evidence defendant has not come forward to advance final arguments. Further, defendant stopped appearing before the court after 19.07.2025. Left with no other option, the court proceeded with the defendant as ex parte on 27.02.2026.

17. Ld. Counsel for plaintiff advanced final arguments on 04.07.2026.

18. For the purpose of considering the merits of the case, case file has been perused.

19. The issues on which decision has to be given were framed in the present matter on 12.03.2024. Before deciding the issues, the Court has considered the arguments led by Ld. Counsel for plaintiff and has also gone through the file.

20. It is argued by Ld. Counsel for plaintiff that defendant was employed with plaintiff company as a Consultant-Policy and Regulatory in the Enterprise 'Consulting Vertical' vide offer letter dated 18.01.2022. The defendant had joined the services with the plaintiff company at New Delhi office on 22.02.2022. It is further submitted that the defendant accepted the terms and conditions of the appointment letter, including the service conditions, notice period and other company policies. It is further submitted that as per terms of the appointment letter dated 22.02.2022, the notice period is mentioned in clause 10. It is clear that the contract of employment was terminable by either party, without reasons by giving three month's prior written notice. It is further submitted that in the present case the defendant proceeded on leave without pay without giving any details regarding the same and without mentioning any date of joining back. It is further argued that considerable expenditure was incurred on the defendant's recruitment, training and induction and the plaintiff is entitled to the recovery prayed for.

21. No arguments were led on behalf of the defendant as mentioned above.

22. Since evidence has been led by the parties, the matter is decided on merits of the case.

23. It is a settled law that in civil cases, the case has to be decided on preponderance of probabilities. In the present case, the case of the plaintiff company is that it offered

employment to the defendant on 18.01.2022 which was accepted by the defendant on 19.01.2022 and he joined the plaintiff company in terms of appointment letter dated 22.02.2022. It is further the case of the plaintiff that the plaintiff company gave induction training to the defendant and after working for approximately one and a half months, the defendant sent an email dated 04.04.2022 at about 10.11 AM to the plaintiff company to proceed on leave for a period of at least two months citing family reasons. He submitted that he wanted to proceed on leave for the said period and it may be considered as leave without pay. It is further submitted that at 10:13 AM, defendant sent another email submitting all the company belongings to his reporting Manager. It is stated that the plaintiff company tried to contact the defendant but he did not give any proper response and an email dated 21.04.2022 was sent to him requesting him once again to furnish the medical reports and documents of his ailing relative, on which ground he had proceeded on leave without pay. It is stated that no documents were provided by the defendant and thereafter when he was again contacted on 21.04.2022, he submitted that he was going through mental health issues. It is submitted that legal demand notice was also sent to the defendant but he did not reply to the same nor met the demands of the plaintiff company. It is submitted that against the stipulations mentioned in Clause 10 of the appointment letter 22.02.2022, the defendant proceeded on leave and stopped working for the plaintiff company without serving his notice period and thus he was liable to

compensate the plaintiff company.

24. The case of the defendant is that he was told by his Reporting Manager to take leave without pay when he informed him about his family emergency and was also instructed to submit all his company belongings. He said that his request for leave without pay was not rejected by the plaintiff company. He said that he did not resign from services of the plaintiff company. He further stated that he had applied for leave without pay on 04.04.2022 and apart from one month's salary, he did not receive any payment from the plaintiff company. He further stated that the plaintiff company did not suffer any loss because of his conduct.

25. After considering the file and the submissions, it is apparent that the dispute between the parties is not just of compensation to the plaintiff company but it is also with regard to whether the plaintiff terminated the services of the defendant or whether the defendant himself resigned from his services. This issue becomes important as the implications mentioned under clause 10 on termination and resignation are different. In the present case, there is no formal termination or resignation that has taken place. The defendant had applied for leave without pay vide email dated 04.04.2022 stating family reasons and thus he proceeded on leave without pay. According to the defendant, he was terminated from services as he was asked to deposit his laptop, ID card and pen drive and other belongings of the

company to his reporting officer. However, no such email asking the defendant to deposit these articles is on record. Email dated 04.04.2022 sent at 10.11 AM and 10:13 AM by the defendant to the plaintiff company Ex PW1/6 have been perused and it is found that no such instructions were given by the plaintiff company to the defendant. Rather it is an admitted fact that the plaintiff company sent another email to the defendant on 21.04.2022 asking him to furnish the medical documents of his relative failing which they would be constrained to give negative feedback about him, which shows that the plaintiff company was still considering the defendant to be in employment with them. This in turn implies that the defendant was never terminated from the services by the plaintiff company and it was the defendant himself who stopped coming to work. Further, despite sending of legal notice by the plaintiff company, defendant failed to reply to the same.

26. In view of the above discussion, the issues framed in the case are decided as follows:-

ISSUE NO. 1:-Whether the plaintiff is entitled to a recovery of an amount of Rs. 4,40,364/- as prayed? OPP.

27. The onus to prove this issue was upon the plaintiff.

28. The AR of plaintiff was cross examined by Ld. Counsel for defendant at length in which the AR of the plaintiff has submitted that they had paid two month's of salary for the month of February and March 2022 to the defendant where after the defendant proceeded on leave without pay. It is

further submitted that expenses were incurred on his induction training. The plaintiff has thus prayed for gross salary calculated at the rate of Rs. 46,788/- per month for a period of three month's amounting to Rs. 1,40,364/- (for the notice period) to be recovered from the defendant.

29. In addition the plaintiff has further prayed for Rs. 1,00,000/- as cost of hiring legal services and Rs. 2,00,000/- for harassment. In total, the plaintiff has prayed for recovery of Rs. 4,40,364/-. It is a settled law that the onus to prove his case is upon the person who claims it. The onus to prove this issue was upon the plaintiff. From the pleadings led by the plaintiff, it is obvious that the plaintiff has not brought any evidence on record to substantiate its claim regarding cost of hiring legal services and harassment. The amount seems to have been randomly calculated and mentioned in the plaint without any basis. Considering there is no evidence produced on record to substantiate the claim of amount regarding cost of hiring legal services and harassment, the same cannot be allowed to be recovered by the plaintiff company from the defendant. Regarding the amount of Rs. Rs. 46,788/-, it is clear that clause 10 in the appointment letter provides for the right of the company to recover gross salary in lieu of shortfall in the notice period. Even though there is no notice period which has been formally mentioned in the case by any of the parties, it is an established fact that the plaintiff company never terminated the services of the defendant. Rather it was the defendant who himself stopped coming to work from 04.04.2022 and did not even specify

when he would return back to work. In the facts and circumstances of this case, it is clear that even though there was no formal resignation by the defendant, the defendant had effectively resigned from services from 04.04.2022. Further, it is an admitted fact that he did not serve the notice period as no formal notice period could be specified by the plaintiff company to the defendant. Plaintiff company cannot be made to suffer due to the conduct of the defendant who himself was not clear regarding his employment and resignation. In light of this, Clause 10(a) of the appointment letter dated 22.02.2022 comes into play and the plaintiff company becomes justified in filing the present case for recovery of gross salary for the notice period which was maximum of three months. The contention of the defendant that his employment was not confirmed by the plaintiff company is not relevant as nowhere in his appointment letter was it mentioned that his employment had to be confirmed. Thus, the plaintiff company is entitled to recover three months gross salary paid at the rate of Rs. 46,788/- per month for a period of three month's amounting to Rs. 1,40,364/- (for the notice period). Accordingly, this issue is partly decided in favour of the plaintiff and against the defendant.

ISSUE NO. 2:-Whether this Court has territorial jurisdiction to entertain the present suit? OPD.

30. This issue was already decided by the Ld. Predecessor Court on 02.02.2024 when the application filed under Order VII

Rule 11 CPC by the defendant was dismissed and the Court held that it had territorial jurisdiction to try the present case. Accordingly, this issue is decided in favour of the plaintiff and against the defendant.

ISSUE NO. 3:-Whether the suit is not filed by duly authorized person? OPD.

31.The onus to prove this issue was upon the defendant. Neither any evidence nor any document has been filed / proved on record by the defendant in discharge of this onus.

32.Perusal of record shows that the present suit has been filed through its Authorized Representative Sh. Ankur Mishra being the manager of the of the plaintiff company. The copy of board resolution in favour of Sh. Ankur Mishra has been filed on record and exhibited as Ex PW1/1. During the recording of evidence of the plaintiff company, the AR of the plaintiff company was replaced by Ms. Urooj Fatma who filed board resolution Ex PW1/1 and thus it is clear that plaintiff company was duly represented by its Authorized Representative. Hence, this issue is also decided in favour of the plaintiff and against the defendant.

ISSUE No. 4:- RELIEF:-

33.In view of the aforesaid facts and circumstances, the suit of the plaintiff stands decreed for a sum of Rs. 1,40,364/-.

34. Cost of the suit is also awarded to the plaintiff.

35. Decree sheet be prepared accordingly.

36. File be consigned to record room after due compliance.

**Announced in the open
Court on 10.08.2026**

**(BHAVNA KALIA)
District Judge 01(SE)
Saket Courts, New Delhi**