

CS (COMM) 1099/23
BALAJI POWER
Vs.
M/S SIMPLEX INFRASTRUCTURES LTD

21.03.2024

Present : Sh. Shri Ram Verma, Ld Counsel for the plaintiff alongwith
Sh. Shiv Kumar Soni, Proprietor of the plaintiff firm.
Ms. Pratika Agarwal, Ld Counsel for the defendant no.1.
Sh.Parth Awasthi,Ld Counsel for defendant no.2 through VC.

Matter is listed today for consideration on written statement of defendant no.1 as well as exploring settlement.

Perusal of file shows that on 20.02.2024, defendant no.1 has filed two applications, i.e. one application under Section 5 of Limitation Act for condonation of delay in physical filing of written statement on behalf of the defendant no.1 and another application under Order VII Rule 11 r/w Section 151 CPC. Copies stated to be supplied to ld counsel for the plaintiff.

At this stage, ld counsel for the plaintiff has also filed replication to the written statement of defendant no.1 alongwith bunch of documents and one Pen Drive.

Written statement of defendant no.1 has not been taken on record as yet and moreover, the argument on application for condonation of delay in filing written statement on behalf of defendant no.1 is yet to be heard.

Further, at this stage, ld counsel for the plaintiff submits that since the plaintiff has filed the replication to the written statement of defendant no.1, before taking the written statement of defendant no.1 on record, as well as the plaintiff has also annexed the bunch of documents and Pen Drive alongwith replication without any application for placing

the additional documents on record and hence, he is withdrawing the replication on behalf of the plaintiff and he may be permitted to withdraw the replication of the plaintiff to the written statement of defendant no.1.

In view of the above submissions of ld counsel for the plaintiff, replication of the plaintiff to the written statement of defendant no.1, is dismissed as withdrawn with liberty to file afresh in accordance with law.

Ld counsel for the plaintiff seeks one opportunity for filing reply to the application under Section 5 of Limitation Act and reply to the application under Order VII Rule 11 r/w Section 151 CPC.

At this stage, ld counsel for the plaintiff has filed tracking report regarding service of defendant no.2 through speed post. He submits that as per tracking report, defendant no.2 was served on 20.12.2023 through speed post.

Ld counsel for the defendant no.2 submits that defendant no.2 will file written statement alongwith application for condonation of delay in filing written statement.

Ld counsel for the defendant no.1 submits that the management of the defendant no.1 is exploring the settlement with the plaintiff and on next date of hearing, she will also apprise the court about the possibility of settlement.

Parties are directed to appear on next date of hearing for exploring settlement.

Put up on 15.05.2024 for reply if any, as well as argument on both the above applications.

(LAL SINGH)
District Judge (Commercial Court-01)
/SE/Saket/ND/21.03.2024

IR