

Jitender Kumar Gupta vs. Sunil Kumar Jain

CNR No.: DLSH01-000903-2026

CS (Comm.) No. 122/2026

04.07.2026

Through Video Conferencing.

Present : Mr. Hardik Malik, Ld. Counsel for the plaintiff.
Ms. Sneh Somani, Ld. Counsel for the defendant.

The defendant filed an application under Order 7 Rule 11 CPC on the premise that initially, the plaintiff instituted a suit against Mr. Sunil Kumar Jain, Managing Director of '*Mona Generator Services Pvt. Ltd.*' and not against '*Mona Generator Services Pvt. Ltd.*'. She also stated that the plaintiff amended the plaint without leave of the Court and service of notice of the application for amendment upon the defendant. She also stated that the plaintiff has no cause of action against '*Mona Generator Services Pvt. Ltd.*'. The plaintiff filed a suit for recovery in the sum of Rs. 4,36,933/- alongwith *pendente-lite* and future interest @ 18% per annum on the premise that the plaintiff supplied goods to the defendant w.e.f. 11.05.2020 to 13.03.2023, *vide* invoices and an amount of Rs. 4,36,933/- was outstanding, as on 13.03.2023. It is seen that the invoices were raised against the defendant-company. Ledger is pertaining to the defendant-company. The plaintiff issued a demand notice dated 02.03.2025 to the defendant-company. Though in the '*unamended memo*', the plaintiff mentioned the defendant as '*Mr. Sunil Kumar Jain, Managing Director*' of '*Mona Generator Services Pvt. Ltd.*'.

However, the plaintiff amended the '*memo of parties*' on an application under Order 6 Rule 17 CPC, *vide* order dated 23.03.2026. There was no necessity for issuance of notice of the said application as the said amendment was allowed before issuance of summons to the defendant. Mere reference of '*Managing Director*' in Para No. 3 of the amended plaint as '*the defendant*' is not sufficient to lead to any inference that the suit was not instituted against '*Mona Generator Services Pvt. Ltd.*'. The plaint must be read as a whole and it cannot be read in piecemeal. On holistic reading of the plaint and documents annexed therewith, it is evident that the plaintiff instituted the suit against '*Mona Generator Services Pvt. Ltd.*'. Misdescription of the defendant in cause title of the suit was also cured by the plaintiff. Accordingly, the application under Order 7 Rule 11 CPC is dismissed. The defendant has filed written statement. The plaintiff may file replication thereto with advance copy to Ld. Counsel for the defendant. To come up for **Case Management Hearing** on 10.08.2026.

Sanjay Sharma-II
DJ (Commercial Court)-03
Shahdara, KKD, Delhi
04.07.2026

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