

CS (COMM) 44/26

**SHREE BANKEY BEHARI FABRICS PRIVATE LIMITED Vs.
CHAMAN MIYAN PROP BARKATI ENTERPRISES**

10.08.2026

Present : Sh. Sehdev, Ld. Counsel for plaintiff.
Sh. Rupin Sharma, Ld. Proxy Counsel for the defendant (VC).

Replication on behalf of plaintiff filed. Copy supplied.

On examination of the pleadings and documents, following issues are framed:-

- (1) Whether the plaintiff is entitled to a decree for recovery of **Rs.30,57,472/-** alongwith pendente-lite and future interest @ 18% per annum, as prayed? (OPP)
- (2) Whether the present suit has been filed on the basis of forged and fabricated invoices? (OPD)
- (3) Whether the suit is barred by limitation? (OPD)

The parties are directed to file their respective list of witnesses within one week from today and get the same approved from the court before examination of the witnesses. The parties are also directed to file their respective affidavits of witnesses within one week from today. Advance copies of the same be exchanged between the parties. In default, a cost of Rs.10,000/- shall be deemed to have been imposed on the defaulting party.

To achieve timely and expedient disposal of this case, a decision is arrived at for recording of evidence by way of Court Commissioner as provided under Order 15A Rule 6 (l) of the Commercial Courts Act and Order XXVI Rule 4A read with Order 18 Rule 4 CPC. Evidence in this case shall be recorded before Ld. Local Commissioner Ms. **Pradeep Kumar Advocate, Enrl. No. D-8324/2024, Chamber no.F-713, Karkarodoma Courts, Delhi, Mob no.9773755361** at the earliest. The terms of the assignment are as under:

- (1) The evidence shall be recorded in this Court premises and Ahlmad/Assistant Ahlmad shall make available the court file to the LC while

recording the evidence and the parties are required to pay a sum of Rs.500/- per hearing to the Ahlmad/Assistant Ahlmad for making available the file.

(2) Ld. Local Commissioner shall administer oath to the witness under examination as per the Oaths Act.

(3) The evidence shall be preferably typed on a paper or in case of non availability, the same shall be neatly hand written.

(4) Ld. Local Commissioner shall comply with the provisions of Order 18 Rule 4 CPC while recording the evidences of the witnesses.

(5) The documents shall be exhibited but in case of any objection to the exhibition of documents by the either side the same shall be recorded by the Local Commissioner.

(6) On the request of Ld. Counsel, cross examining the witness, portions of deposition may be recorded in question answer form.

(7) All the objections raised during cross-examination/re-examination shall be recorded in the deposition under the title objections and shall be left open for the decision of the Court at the stage of final arguments. Witness shall not refuse to the answer the question raised.

(8) In case Ld. Commissioner finds any question not related to the fact and issue, he shall record his objection but shall allow the question to be put and witness must answer.

(9) Remuneration fee for recording of evidence is fixed at Rs.15,000/- for each, main/public witness and Rs.10,000/- each for official witness for one sitting per day (3 hours), which shall be paid to Ld. LC in advance, by the respective parties.

The party who is leading the evidence shall bear the costs of sitting. The parties to ensure that they will not seek any adjournment before Ld. Local Commissioner. At the cost of repetition, it is clarified that the plaintiff shall bear the expenses of plaintiff's evidence and defendant shall bear the expenses of defendants' evidence.

In case an evidence schedule is fixed and adjournment is sought by the opposite side, that is the side other than who is leading evidence, without 24 hour advance notice, the party seeking adjournment shall bear the cost of recording of evidence by the LC for the adjournment taken. In case a witness scheduled to be examined or under examination is reported to be unwell or unavailable, the party leading the evidence shall produce the next witness in line in the list for recording of evidence.

All parties shall be provided uncertified electronic/hard copy of the evidence recorded by the Court Commissioner free of cost.

Expenditure incurred in recording of evidence shall be redeemable as cost of litigation at the end of the suit.

In case of any unforeseen situation requiring judicial interpretation, the court commissioner shall fix the date and preferably time at 2 pm for joint appearance of both sides before the court for removal of any such impediment.

Every endeavour shall be made to record the evidence and continue the same on day to day basis till conclusion. Any alteration in schedule for recording of evidence, if needed, shall be decided by the Court Commissioner as per the convenience of both the sides. However, every effort be made to record the entire evidence on or before the next date of hearing.

Advance copy of examination in chief by way of affidavit shall be supplied to the opposite side preferably three days in advance. In case a litigating party is desirous of summoning a witness for deposition or production of document, it shall obtain summons from the court with an endorsement that such person shall appear at the address of the Court Commissioner at scheduled time and place.

It is also mentioned that in case the witnesses are not cross-examined in one day/session (three hours), the fee for the cross examination of the witnesses on the other day/session shall be paid by the respective party conducting cross-examination. The stenographer be arranged by LC and the actual cost of typing shall be paid by the plaintiff/defendant to Ld. LC (upto Rs.1000/- per witness). Further, in case any adjournment is sought by either of the parties, the fees of Ld. LC of that particular day shall be paid by the party seeking adjournment.

Parties are directed to appear before Ld. Local Commissioner for recording of evidence. The Ld. LC may fix date of recording of evidence in consultation with the plaintiff, and to conclude the evidence prior to final arguments.

Report be filed by Ld. Local Commissioner on or before the next date of hearing.

Ld. Counsel for the defendant submits that he is not available for 15 days and has requested that longer date may be given. Heard. Ld. Counsel for the plaintiff has not opposed.

As requested, put up for final arguments on **23.09.2026**.

Ld. Counsel for the parties are permitted to file their respective written arguments on or before the next date of hearing. Advance copies of the same be exchanged between the parties, at least two days, prior to the date fixed for final arguments.

A copy of this order be sent to the Local Commissioner and be also given dasti to the parties for information and necessary compliance.

Ramesh Kumar-II
DJ (Commercial Court)-03
Shahdara, KKD, Delhi
10.08.2026