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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(OS) 89/2019**

M/S SURYA ROSHNI LTD.

..... Plaintiff

Through: Mr. Sachin Puri, Sr. Advocate with
Mr. Varun Jain, Mr. Kamil Khan, Mr.
Navroop Singh Bakshi, Mr.
Dhananjay Grover, Mr. Dhan Singh
& Mr. Sandeep, Advocates (M-
9999020047)

versus

PUNJAB NATIONAL BANK & ORS.

..... Defendants

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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14.02.2019

I.A. 2104/2019 (exemption)

1. This is an application seeking exemption from filing certified copies, typed documents of the dim/original and illegible documents. Recording the Plaintiff's undertaking that the inspection of original documents shall be given, if demanded, or that the original documents shall be filed prior to the stage of admission/denial, the exemption is allowed. I.A. is disposed of.

I.A. 2105/2019 (for extension of time)

2. Ld. counsel for the Plaintiff submits that the Court fee has been deposited in the treasury, but the stamp is yet to be issued. Subject to the challan being produced today to the Court master and the Court fee being deposited within one week, the time for court fees is extended.



3. With the above directions, I.A. is disposed of.

CS(OS) 89/2019

4. Let the plaint be registered as a suit.

5. Issue summons to the Defendants through all modes upon filing of Process Fee including through email.

6. The summons to the Defendants shall indicate that written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement, the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiff, without which the written statement shall not be taken on record.

7. Liberty is given to the Plaintiff to file a replication within 15 days of the receipt of the written statement. Along with the replication, if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendants, be filed by the Plaintiff, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines prescribed under the Delhi High Court (Original Side) Rules, 2018.

8. List before the Joint Registrar for marking of exhibits on 10th May, 2019. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

9. List before Court on 26th April, 2019.

I.A. 2103/2019 (u/O XXXIX Rule 1 and 2 CPC)

10. The Plaintiff has filed the present suit seeking declaration, permanent injunction and damages. The case of the Plaintiff is that the Plaintiff entered into a purchase transaction with M/s Smart Tech Pvt. Ltd. – Defendant No.3 for sale/purchase of LED street lights. The representation to the Plaintiff by



M/s Smart Tech Pvt. Ltd. was that it had received an order from Defendant No. 2 - Indore Municipal Corporation for supply of LED lights vide purchase order dated 12th January, 2018. Pursuant to the purchase order, a bank guarantee dated 26th February, 2018 was issued by the Plaintiff in favour of Indore Municipal Corporation for a sum of Rs.2 crores.

11. The submission of Mr. Sachin Puri, Ld. Senior Counsel is that subsequently an agreement was entered into between Indore Municipal Corporation and M/s Moschip Semiconductor Technology Ltd. – Defendant No.4 dated 12th June, 2018. The Indore Municipal Corporation recently i.e. on 16th January, 2019 sought to invoke the bank guarantee given by the Plaintiff. The invocation letter stated that the same was being issued under an agreement between M/s Moschip Semiconductor Technology Ltd. and Indore Municipal Corporation. Punjab National Bank vide letter dated 21st January, 2019 clarified the position to the Corporation and informed the Corporation that the bank guarantee has been issued against the purchase order of 12th January, 2018 and not the agreement between M/s Moschip Semiconductor Technology Ltd. and Indore Municipal Corporation. The Corporation again invoked the bank guarantee on 23rd January, 2019, to which the bank has again responded on 4th February, 2019 that the invocation is incorrect.

12. This Court has perused the documents on record and the pleadings. At this stage, it is not clear as to what is the relationship between Defendant No.3 and Defendant No.4 as also whether the bank guarantee is being construed by the Corporation as being connected with the purchase order. Considering that the bank has already refused to make the payment vide letters dated 21st January, 2019 and 4th February, 2019, it is sufficient at this



stage to direct that if there is a fresh invocation by Indore Municipal Corporation, seven days notice would be issued to the Plaintiff, before the money is credited by the bank to the Corporation.

13. Summons and notices be served to the Defendants including *dasti*.

14. Indore Municipal Corporation is given liberty to approach this Court if it wishes to seek any modification.

15. List on 26th April, 2019.

16. Order *dasti*.

PRATHIBA M. SINGH, J.

FEBRUARY 14, 2019

Rahul