



\$~37

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

+ **RFA(COMM) 175/2024**

R.G. BUILDWELL ENGINEERS LIMITED APPELLANT

Through: Mr Ruchir Mishra with Mr Sanjiv Kr Saxena, Mr Mukesh Kumar Tiwari, Mr Ramneek Mishra, Ms Poonam Shukla and Ms Reba Jena Mishra, Advs.

versus

DABKA STONE CRUSHER PRIVATE LIMITED RESPONDENT

Through: None.

**CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE AMIT BANSAL**

O R D E R

% **08.05.2024**

[Physical Hearing/Hybrid Hearing (as per request)]

CM Appl.27492/2024

1. Allowed, subject to the appellant filing legible copies of the annexures, at least three (3) days before the next date of hearing.

CM Appl.27493/2024

2. This application is disposed of with a direction to the Registry to place the entire trial Court record before this Court prior to the next date of hearing, *albeit*, in digitized form.

RFA(COMM) 175/2024

1/3



CM Appl.27491/2024

3. Allowed, subject to just exceptions.

CM Appl.27490/2024

4. Mr Ruchir Mishra, learned counsel, who appears on behalf of the appellant, says that since typographical errors have crept in the application, the same could be closed.

4.1 It is ordered accordingly.

RFA(COMM) 175/2024 & CM Appl.27489/2024

5. This appeal seeks to assail the judgment and decree dated 23.02.2024 passed by the learned District Judge, Commercial Court-03, Shahdara district, Delhi.

5.1 Via the impugned judgment, the respondent's/plaintiff's suit has been decreed, with cost, for Rs.24,58,316/- along with interest at the rate of 9% per annum commencing from 01.06.2019 (the date on which the last transaction that occurred between the parties), till its realization.

5.2 Besides this, Rs.25,000/- has also been awarded towards the legal fee incurred by the respondent/plaintiff.

6. Mr Ruchir Mishra, learned counsel, who appears on behalf of the appellant/defendant, says that the respondent/plaintiff has been unable to prove that the subject goods were delivered to the appellant/defendant.

7. We may note that in the impugned judgment, there is a reference to the acceptance of debit balance on WhatsApp by one of the Directors of the appellant/defendant.

RFA(COMM) 175/2024

2/3



8. Furthermore, there is also a reference to an email dated 27.02.2021 sent by the appellant/defendant to the respondent/plaintiff, which alludes to acceptance of the fact that debt is due and payable.
9. Since the appellant/defendant denies the veracity of the messages communicated through WhatsApp and email, we would like to examine the matter a little further.
10. Accordingly, issue notice to the respondent/plaintiff *via* all permissible modes including email.
11. Subject to the appellant/defendant depositing the entire decretal amount within four (4) weeks from today, there shall be, for the moment, a stay on the impugned judgment and decree.
12. List the matter on 20.09.2024.
13. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

AMIT BANSAL, J

MAY 8, 2024/pmc

Click here to check corrigendum, if any

RFA(COMM) 175/2024

3/3