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

+ RFA(OS) 68/2019 & C.M.Appln.33508/2019 (for condonation of delay of 55 days in filing)

M/S HBR CHEMICALS PVT LTD Appellant
Through: Mr. Rakesh Kumar Khanna, Senior
Advocate with Mr. K.R.Chawla and Ms. Vaishali
Gupta, Advocates
versus

KAILASH NATH & ASSOCIATES & ORS Respondents
Through: None

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE ASHA MENON

ORDER
% **17.10.2019**

1. On the last date of hearing, on perusing the averments made in the plaint filed by the appellant/plaintiff, it was observed that there was no suit valuation para incorporated in the plaint. Learned counsel for the appellant/plaintiff had sought an adjournment to enable the briefing counsel to verify the correct position.
2. Today, Mr. Rakesh Kumar Khanna, learned Senior Advocate appearing for the appellant/plaintiff states that a certified copy of the plaint filed in CS(OS) 276/2014, certified copy of the court fee and certified copy of the impugned judgment and decree-sheet had been filed on 11.10.2019. The said documents are not on record. A set of the said documents has been handed over to the Court. A perusal of the certified copy of the plaint bears out what was indicated on the last date that there is no suit valuation para in

the plaint. We find a hand written sentence at the bottom of para 22 of the plaint, which simply states that the total jurisdictional value of the suit is Rs.2,09,13,750/-.

3. Learned Senior Advocate appearing for the appellant/plaintiff draws our attention to the documents placed at pages 15 to 17 of the set of documents handed over to us today, to state that three sets of court fee were deposited in the suit, firstly, on 01.11.2013, a sum of Rs.49,990/- was deposited; then on 29.11.2013, another sum of Rs.1,56,500/- was deposited and lastly, on 24.01.2014, a sum of Rs.2,350/- was deposited. In other words, the appellant/plaintiff has deposited the court fee in three tranches, presumably on objections of deficiency raised by the Registry from time to time.

4. Learned counsel for the appellant/plaintiff states that a decree-sheet has been drawn in the suit, photocopy whereof has been placed at page 27 of the set of documents handed over to us wherein, the value of the suit for purpose of jurisdiction has been stated as Rs.2,09,13,750/- and the court fee paid has been recorded as Rs.2,08,840/-. He states that all the aforesaid documents clearly indicate that the requisite court fee has been duly paid on the reliefs prayed for in the suit at prayers 'A', 'B' and 'C' of the plaint.

5. We are informed that the decretal amount, as awarded in favour of the appellant/plaintiff, has already been paid by the respondents/defendants. It is clarified by learned counsel that the said payment has been received by the appellant/plaintiff without prejudice to its rights, as would be apparent on a perusal of the endorsement of the appellant/plaintiff on the letter dated 04.12.2018, addressed by the respondents/defendants to the appellant/

plaintiff (Annexure-A).

6. Coming next to the merits of the appeal, learned counsel for the Appellant/plaintiff draws our attention to para 13 of the impugned judgment wherein, it has been observed that the defendants/respondents have enjoyed a sum of Rs.49,50,000/- paid by the appellant/plaintiff ever since the year 1995, spanning over 23 years. It is submitted that despite taking note of the said position, while awarding interest on the principal amount, the learned Single Judge has decreed the suit in the sum of Rs.49,50,000/- while confining the interest payable by the respondents/defendants from the year 2005 onwards instead of the year 1995.

7. Limited to the above, issue notice to the respondents/defendants on the appellant/plaintiff filing the process fee by all three modes, returnable on 23.03.2020.

HIMA KOHLI, J

ASHA MENON, J

OCTOBER 17, 2019/s