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

+ **RFA(COMM) 252/2024 & CM APPL. 37842-37843/2024**

RAJEEV KUMAR

.....Appellant

Through: Mr S.C. Sagar, Mr Manoj Kr,
Advocates.

versus

M/S SHYAM INDUS POWER
SOLUTIONS PVT. LTD.

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% **09.07.2024**

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

1. This appeal is directed against the judgment and decree dated 30.01.2024 passed by Mr Ashutosh Kumar, learned District Judge (Commercial Court)-01, Tis Hazari Courts, West District, Delhi.
2. Via the impugned judgment, the trial court has decreed the suit in favour of the respondent/plaintiff for Rs.9,60,000/- along with interest at the rate of 12% per annum, commencing from the date of institution of the suit till realization.
3. The record shows that the appellant/defendant had also issued a cheque of the very same amount concerning which the respondent/plaintiff has initiated proceedings under Section 138 of The Negotiable Instruments

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Act, 1881 [hereinafter referred to as the “NI Act”]. The said proceedings are pending adjudication.

4. It appears that the respondent’s/plaintiff’s case before the trial court was that unused material worth Rs.15,83,198.57/- was to be returned by the appellant/defendant, and after adjusting monies owed, the appellant/defendant was required to remit Rs.9,64,143.92/- to the respondent/plaintiff.

4.1 The respondent’s/plaintiff’s stand appears to be that thereafter, the disputants arrived at a settlement, whereunder, the appellant/defendant undertook to pay Rs.9,60,000/- to the respondent/plaintiff.

5. The matter requires further examination.

6. Issue notice to the respondent/plaintiff *via* all modes including e-mail.

6.1. Upon the appellant/defendant depositing the entire decretal amount within six (6) weeks from today, there shall be, for the moment, a stay on the operation of the impugned judgment and decree.

7. List the matter on 06.11.2024.

8. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

AMIT BANSAL, J

JULY 9, 2024/PB

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Click here to check corrigendum, if any

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