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

\+ **RSA 8/2022 & CM APPLs. 1946/2022 & 1947/2022**

DALIP CHAND ..... Appellant

Through: Mr. Rajinder Kumar Sharma, Advocate.

versus

M/S.RAMA ARJUN RETAIL (P) LTD. ..... Respondent

Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

O R D E R

% 12.01.2022

1. This hearing has been done through video conferencing.

CM APPL.1947/2022 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

RSA 8/2022 & CM APPL.1946/2022 (stay)

3. The present regular second appeal has been preferred against the impugned order dated 18th November, 2021 in ***RCA DJ No. 28/2019*** titled ***Sh. Dalip Chand v. M/s Rama Arjun Retail Pvt. Ltd.*** passed by ***ADJ-08, Tis Hazari Court/West/Delhi*** *(hereinafter "Appellate Court")* vide which the Appellate Court upheld the order/ judgment dated 08th January, 2019 in ***CS SCJ No. 1112/2017*** titled ***Rama Arjun Retail Pvt. Ltd. v. Dalip Chand & Anr.*** passed by the ***Civil Judge (West) Delhi*** *(hereinafter "Trial Court")* dismissing the leave to defend application under Order XXXVII Rule 3(5) CPC filed by the Appellant/ Defendant *(hereinafter "Defendant")*. In effect, the passed against the Defendant for the sum of Rs.1,70,300/- along with interest @ 8% per annum from the date of filing of the suit till

realization has been upheld. The operative portion of the decree reads as under:

> *"Therefore, as a sequel to the aforesaid discussion and findings, this court is of the considered opinion that the defence raised by the defendants appears to be illusory, baseless and after thought. Thus, the leave to defend application filed by the defendant hereby stands dismissed and the suit is decreed in favour of the plaintiff as plaintiff has duly proved the giving of the loan for the purchase of E-Rickshaw and batteries by placing on record various documents i.e. invoice dated 03.03.2014, loan term sheet executed between the plaintiff and both the defendants, promissory note as well as the statement of account. It is also noteworthy to mention that all these documents are countersigned by the defendant as well as the guarantor and it is not even the defence of the defendant that the signatures on all these documents are not that of the defendant.*
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> *Accordingly, in terms of Order 37 Rule 3 (6) (a) CPC, the suit stands decreed in favour of the plaintiff and against the defendant for an amount of Rs.1,70,300/- along with interest @ 8% per annum from the date of the filing of the suit till realization."*

4. The case of the Defendant is that he is working as Multi Tasking Staff (General) in the Ministry of Home Affairs, Government of India. It is submitted by the ld. Counsel for the Defendant that he never purchased two electric battery operated tricycles along with 8 batteries and the Respondent/Plaintiff (*hereianfter "Plaintiff"*) has raised fabricated ledger account for the period from 1st April 2013 to 31st May 2017 and false bill bearing No. Rama/2013-14/32 on credit/EMI for Rs. 2,36,250/- in this

regard.

5. It is his case that he actually took a loan of Rs.50,000/- from the Plaintiff on 3rd March 2014 and only Rs.19,300/- is left to be paid as the substantial sum of Rs.30,700/- has already been paid by the Defendant in four EMIs to the Plaintiff. He further submits that the Plaintiff had taken the signature of the Defendant on some blank papers. The Trial Court has come to the conclusion that the Defendant has in fact entered into the loan term sheet with the Plaintiff and issued the promissory note in question to the Plaintiff. It further held that since the signatures on these documents are not disputed by the Defendant, there is no case of granting leave to defend.

6. This is a second appeal and before proceeding further in the matter, this Court first needs to examine whether any substantial questions of law arise in this case or not. In view of the fact that the Appellant claims to be a permanent government employee and claims to have not availed of a loan for e-rickshaws, issue notice to the Respondent.

7. List on 19th April, 2022.

8. In the meantime, the impugned judgment/decree shall stand stayed, subject to deposit of the entire decretal amount in two equal instalments with the Registrar General of this Court by the Defendant. The First instalment shall be deposited by the Defendant on or before 15th February, 2022 and the second instalment shall be deposited on or before 31st March, 2022.

PRATHIBA M. SINGH, J.

JANUARY 12, 2022/*dk/sk*