

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

S.B. Civil Writ Petition No. 14450/2024

Kerry Indev Logistics Private Limited, Through Its General Manager And Authorised Signatory Mr. Sunil Jagdish Gohil, Aged About 43 Years, S/o Sh. Jagdish Gohil, Fff. Add. At 169/36, Adani Ftwz, Dhurb Village, Mundra, Kutch, Gujarat - 370421 And Registered Off. At 81/41, Swami Complex, Thambu Chetty Street, Chennai, Tamil Nadu-600001.

-----Petitioner

Versus

1. Suncity Art Exporte, Through Its Partner Jitendra Jain S/o Sh. Jaswant Raj Jain, R/o 42-A, Shastri Nagr, Jodhpur, Off. Address At Kudi Bhagtasni, Pali Road, Jodhpur, Rajasthan - 342005.
2. Ua Consultant, 114, Sector 21B, Faridabad, 121001.
3. Uma Abrol W/o Ajay Abrol, Proprietor Ua Consultant, 114, Sector 21B, Faridabad - 121001, India.

-----Respondents

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| For Petitioner(s) | : | Mr. Shreyansh Mardia |
| For Respondent(s) | : | -                    |

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**JUSTICE DINESH MEHTA**

**Order**

**26/09/2024**

1. Learned counsel for the petitioner invited Court's attention towards the assertion made by the petitioner in the application seeking leave to defend that was filed before the learned Commercial Court and submitted that the petitioner is only a logistic company and the business transactions of the plaintiff were with defendant Nos.1 and 2.
2. While informing that the application under Order XXXVII of Code of Civil Procedure was filed by the plaintiff seeking recovery

of the amount of good sold, learned counsel argued that learned Commercial Court has erred in imposing the condition of furnishing bank guarantee of Rs.24,79,520/-, as a condition of leave to defend.

3. Learned counsel argued that in the facts of the present case, learned Commercial Court was not justified in imposing such condition, and for such purpose relied upon judgment dated 18.01.2022 of Hon'ble the Supreme Court rendered in the case of B.L. Kashyap and Sons Ltd. vs. M/s JMS Steels and Power Corporation & Anr., reported in (2022) 3 SCC 294.

4. The matter requires consideration.

5. Issue notice. Issue notice of the stay application also, returnable within six weeks.

6. Meanwhile, effect and operation of impugned orders dated 09.05.2024 so also 09.07.2024 shall remain stayed.

7. The Commercial Court shall accept the petitioner's written statement, if filed within a period of 15 days from today.

**(DINESH MEHTA),J**