



2025:DHC:3707



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

Date of Decision: 02.05.2025

+ **C.R.P. 131/2025 & CM APPL. 26512/2025**

EAST WEST PRODUCTS LIMITED

.....Petitioner

Through: Mr. Kausik Chatterjee Samridhi,
Advocate.

versus

VIJANI EXIM EVT LTD & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The present Petition has been filed on behalf of the Petitioner under Section 115 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"] against the order dated 24.02.2025 passed by learned District Judge-06, East Delhi, Karkardooma Courts, Delhi [hereinafter referred to as "Impugned Order"]. By the Impugned Order, the Application under Order XII Rule 6 of the CPC filed by the Petitioner has been dismissed.

2. The only ground that is raised before this Court by the Petitioner is that the audited balance sheet for the financial year 2012-13 to 2015-2016 as filed by the Respondent No .1 shows an admission, and thus, the Application under Order XII Rule 6 of the CPC filed by the Petitioner was wrongly dismissed by the learned Trial Court.

3. The contention that is raised by the Petitioner before this Court was



also raised by him before the learned Trial Court. It was stated therein that the audited balance sheet for the Financial Years 2012-13 to 2015-16 has listed the Plaintiff (Petitioner before this Court) as a “sundry creditor” and this admission forms the basis of the suit and there is no genuine dispute regarding the admitted amount.

4. The learned Trial Court examined the Application under Order XII Rule 6, CPC filed by the Petitioner and the law in this behalf and gave a finding that the Respondents/Defendants have submitted in their written statement that the goods against the invoices which are set forth by the Petitioners/Plaintiffs were never sold by the Petitioners/Plaintiffs to the Respondents/Defendants. It is submitted that the invoices were deleted from their accounts and that the Plaintiff (Petitioner before this Court) is liable to make the payment of approximately Rs.17.29 lacs. It is apposite to set out the findings in this behalf by the learned Trial Court, which is below:

“18. In the light of the law laid down with respect to the and scope of Order XII Rule 6 CPC, let us examine the case of the plaintiff and defendant and from the averments/submissions, if the court comes to the conclusion that the same amounts to admissions unequivocal and clear, the decree on the admissions of the defendant can be passed.

19. The plaintiff has based its case for judgment on admission on the audited balance sheet of defendant no.1 for the financial year from 2012-13 to 2015-16, which listed the plaintiff in the category of “sundry creditors’ for a sum of Rs.10,78,671/-. It is that case of the plaintiff said balance sheet which is a part of the court record is an admission of the suit amount on the part of defendants, therefore, the plaintiff is entitled to a decree of Rs. 10,78,671/- along with interest. However, in their written statement, the defendants contested the suit of the plaintiff by averring that the plaintiff had fraudulently made entries in the account of the defendants in the book of accounts maintained by the plaintiff for goods sold to Kanodia Technoplast Pvt Limited. It is contended by defendants that bills of goods worth Rs. 28,07,895/- (i.e. invoice no.(s) 536 dated 24/03/2011 for Rs. 9,34,182/-, 538 dated 24/03/2011 for Rs. 9,35,387/- & 545 dated 29/03/2011 for Rs. 9,38,326/-) issued by the plaintiff to Kanodia



Technoplast Pvt. Limited have been falsely entered into the account of defendants in the books of the accounts maintained by the plaintiff and goods against the aforesaid invoices were never sold by the plaintiff to defendants. It is submitted on behalf of the defendants if the aforesaid invoices are deleted from the account of the defendant, the plaintiff is liable to make payment of Rs.17,29,208/- to the defendants. Further, as per the plaintiffs own version, the defendant has now, albeit in an unlawful and fraudulent manner, revised its financial statement for the year 2016-17 to show the plaintiff as a debtor of Rs. 17,29,208/-.

20. In view of the above discussion, there is no clear, unequivocal and unambiguous admission on the part of the defendants to entitle the plaintiff to a judgement and decree based on admission. The defendants have not only contested the present suit for recovery but also claimed an amount of Rs.17,29,208/- by filing a counter claim. Further, both the plaintiff and defendants have filed an application under section 340 of CrPC accusing each other of perjury. The issues raised by both the parties in the matter can only be decided after evaluating and appreciating evidence of both the sides after the completion of the trial in the matter.”

[Emphasis Supplied]

5. The learned Trial Court has thus found that there is no clear, unequivocal and unambiguous admission to entitle the defendant to a relief.

6. It is apposite to extract the provisions of Order XII Rule 6, CPC below:

“ORDER XII

Admissions

6. Judgment on admissions.—(1) Where admissions of fact have been made either in the pleading or otherwise; whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question-between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.”

7. Order XII Rule 6 of the CPC confers a discretionary power to the Court to pass a judgment on the admissions of a party without waiting for a



determination of all issues between the parties. It is settled law that these powers are discretionary and cannot be claimed as a right. It is apposite to set out the judgment of the Supreme Court in the case of *Karan Kapoor v. Madhuri Kumar*¹ in this regard. The relevant extract of the *Karan Kapoor* case is set out below:

“23. Order 12 Rule 6 confers discretionary power to a court who “may” at any stage of the suit or suits on the application of any party or in its own motion and without waiting for determination of any other question between the parties makes such order or gives such judgment as it may think fit having regard to such admission.

24. Thus, legislative intent is clear by using the word “may” and “as it may think fit” to the nature of admission. The said power is discretionary which should be only exercised when specific, clear and categorical admission of facts and documents are on record, otherwise the court can refuse to invoke the power of Order 12 Rule 6. The said provision has been brought with intent that if admission of facts raised by one side is admitted by the other, and the court is satisfied to the nature of admission, then the parties are not compelled for full-fledged trial and the judgment and order can be directed without taking any evidence. Therefore, to save the time and money of the court and respective parties, the said provision has been brought in the statute. As per above discussion, it is clear that to pass a judgment on admission, the court if thinks fit may pass an order at any stage of the suit. In case the judgment is pronounced by the court a decree be drawn accordingly and parties to the case is not required to go for trial.”

[Emphasis Supplied]

8. In the case of *Hari Steel & General Industries Ltd. v. Daljit Singh*², the Supreme Court has held that that the discretion conferred under Order XII Rule 6 CPC is to be exercised judiciously, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant. It was further held that where the defendants have raised objections, which go to the root of the case, it would

¹ (2022) 10 SCC 496

² (2019) 20 SCC 425



not be appropriate to exercise discretion under Order XII Rule 6 CPC. The relevant extract of the *Hari Steel* case is reproduced below:

“25. In the judgment in Himani Alloys Ltd. v. Tata Steel Ltd. [Himani Alloys Ltd. v. Tata Steel Ltd., (2011) 15 SCC 273 : (2014) 2 SCC (Civ) 376], nature and scope of Order 12 Rule 6 has been considered by this Court. In the aforesaid judgment this Court has held that the discretion conferred under Order 12 Rule 6 CPC is to be exercised judiciously, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant. Para 11 of the judgment read as under : (SCC pp. 276-77)

“11. It is true that a judgment can be given on an “admission” contained in the minutes of a meeting. But the admission should be categorical. It should be a conscious and deliberate act of the party making it, showing an intention to be bound by it. Order 12 Rule 6 being an enabling provision, it is neither mandatory nor preemptory but discretionary. The court, on examination of the facts and circumstances, has to exercise its judicial discretion, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant, by way of an appeal on merits. Therefore unless the admission is clear, unambiguous and unconditional, the discretion of the court should not be exercised to deny the valuable right of a defendant to contest the claim. In short the discretion should be used only when there is a clear “admission” which can be acted upon. (See also *Uttam Singh Duggal & Co. Ltd. v. United Bank of India [Uttam Singh Duggal & Co. Ltd. v. United Bank of India, (2000) 7 SCC 120]* , *Karam Kapahi v. Lal Chand Public Charitable Trust [Karam Kapahi v. Lal Chand Public Charitable Trust, (2010) 4 SCC 753 : (2010) 2 SCC (Civ) 262]* and *Jeevan Diesels & Electricals Ltd. v. Jasbir Singh Chadha [Jeevan Diesels & Electricals Ltd. v. Jasbir Singh Chadha, (2010) 6 SCC 601 : (2010) 2 SCC (Civ) 745]* .) There is no such admission in this case.”

26. In the judgment in S.M. Asif v. Virender Kumar Bajaj [S.M. Asif v. Virender Kumar Bajaj, (2015) 9 SCC 287 : (2015) 4 SCC (Civ) 589] , this Court has held that the power under Order 12 Rule 6 CPC is discretionary and cannot be claimed as a right. It is further held in the aforesaid case that where the defendants have raised objections, which go to the root of the case, it would not be appropriate to exercise discretion under Order 12 Rule 6 CPC. Para 8 of the judgment read as under : (SCC p. 291)

“8. The words in Order 12 Rule 6 CPC “may” and “make such order ...” show that the power under Order 12 Rule 6 CPC is discretionary and cannot be claimed as a matter of right. Judgment on admission is not a matter of right and rather is a matter of discretion of the court. Where the defendants have raised objections which go to the root of



the case, it would not be appropriate to exercise the discretion under Order 12 Rule 6 CPC. The said rule is an enabling provision which confers discretion on the court in delivering a quick judgment on admission and to the extent of the claim admitted by one of the parties of his opponent's claim.

[Emphasis Supplied]

9. The Petitioner in his Application under Order XII Rule 6, CPC has contended that the Defendant has admitted his liability which is reflected in its audited balance sheets for the Financial Years 2012-13 to 2015-16 by showing the Petitioner as a “sundry creditor” for an amount of Rs.10,78,687/-. Thus, it has been contended that these financial statements and audited balance sheets constitute a binding admission under the law.

9.1 The Respondents/Defendants on the other hand have stated in their Written Statement and in their Reply that the three invoices which were billed to another company were inadvertently adjusted in the ledger account of the Petitioner. It is further stated that when this error was discovered, the Respondents revised its balance sheets for the year 2016-17. The Respondents/Defendants have further relied on its Sales Tax return and Excise Duty return in this regard. Thus, the Respondents/Defendants have raised contentions that go to the root of the case and would necessarily require a trial to be proved.

10. In addition, indisputably, the Respondents have filed a counter-claim in the sum of Rs. 17,29,208/-. Both parties have also filed Applications accusing the other party of perjury.

11. In these circumstances, this Court finds no infirmity with the Impugned Order which would merit interference in revisionary jurisdiction. The documents that the Petitioner seeks to rely upon have not yet been



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proved in accordance with law.

12. For the reasons as stated above, the Petition is dismissed. The pending Application also stands closed.

13. It is, however, made clear that the order passed today will not preclude the Petitioner from raising all contentions before the learned Trial Court. The rights and contentions of both the parties are left open in this behalf.

14. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MAY 2, 2025/ ha

Click here to check corrigendum, if any