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

+ **CS(OS) 73/2024**

Date of Decision: 17.02.2025

IN THE MATTER OF:

PREETI RANA

.....Plaintiff

Through: Mr. T. N. Saxena, Mr. Akshat Aggarwal, Mr. Aakash Shankar and Mr. V. K. Singh, Advs.

versus

M/S SUNSHINE TRADE TOWERS PVT. LTD. THROUGH ITS DIRECTOR AND ORS.Defendants

Through: Mr. Siddharth Nandwani, Adv.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

I.A. 2251/2024 (filed by the plaintiff for grant of ex parte ad interim injunction)

1. There is already an interim order operating in favour of the plaintiff in terms of the order dated 15.02.2024.
2. Let the same be made absolute.
3. Ordered accordingly.
4. The application stands disposed of.

I.A. 2252/2024 (filed by the plaintiff seeking exclusion of the time of proceedings)

5. This is an application filed under Section 14 of the Limitation Act whereby, certain time is sought to be excluded on the ground that the



plaintiff was proceeding *bone fidely* in some other court.

6. The aforesaid issue can be adjudicated during the trial and, therefore, there is no necessity to file a separate application under Section 14 of the Limitation Act.

7. Accordingly, the application stands disposed of reserving all rights and contentions of the parties.

I.A. 30953/2024 (filed on behalf of the plaintiff seeking direction)

8. The Court observes that the evidence and the attestation of the documents shall take place strictly in accordance with the law.

9. The aforesaid aspect shall be ensured by the concerned Joint Registrar. Besides this, nothing more is required to be observed in the instant application at this stage.

10. The application stands disposed of accordingly.

I.A. 30975/2024 (filed on behalf of the plaintiff under Order XII Rule 6 to pass a judgment/decree of Rs.62,00,000/-)

11. Heard.

12. Learned counsel appearing for the plaintiff draws the attention of the Court to various paragraphs of the written statements filed by defendant No.1.

13. He submits that if the pleadings made by defendant No.1 in paragraph Nos.13, 14 and 15 coupled with the pleadings and the documents which are part of the insolvency proceedings are considered in the right perspective, the same would indicate that defendant No.1 is admitting the liability to pay a sum of ₹62,00,000/-.

14. The Court has considered the aforesaid paragraphs and has carefully perused the documents. The instant claim is *inter alia* for recovery of a sum



of ₹2,56,37,958/- along with *pendente lite* interest and up to date payment of interest @ 18 % among the other prayers. If the pleadings which have been pointed out by Mr. T. N. Saxena, learned counsel appearing for the plaintiff are considered holistically, the same does not tantamount to the admission of the claim of the plaintiff.

15. Defendant No.1 appears to have made certain averments with respect to the dealings that have been undertaken by the parties. He submits that the execution of MOU dated 28.01.2019 is admitted to him but so far as the amount of ₹62,00,000/- payable to the plaintiff is concerned, it is submitted that once the subject matter of the entire suit devolves around the question that what amount the plaintiff is entitled from the defendants, the admission as alleged cannot be said to be unequivocal and clear. The admission of ₹62,00,000/- alleged by the plaintiff is in altogether different context. Whether the plaintiff is entitled for decree of ₹62,00,000/- or more is yet to be adjudicated. Para 9 of the MOU speaks of the fact that the claim of original amount as per IBC petition shall only be claimed by the plaintiff in case default is committed by defendant no.1 to any other creditor and only in case defendant no.1 is taken to NCLT and not otherwise.

16. The aforesaid submissions of defendant No. 1 are contrary to what has been stated by the plaintiff as an admission of fact. The Court, therefore, finds that unless there is an unequivocal admission by the defendant, the suit cannot normally be decreed taking recourse to provisions of Order XII Rule 6 of the Code of Civil Procedure. A factual assertion must be evaluated in its entirety. Selectively extracting portions here and there to draw conclusions during the consideration of an application under Order XII Rule 6 of the Civil Procedure Code is not permissible.



17. Reference can be made to the decision in the case of *Uttam Singh Duggal & Co. Ltd. v. Union of India*¹, wherein the Supreme Court elucidated that the legislative intent underpinning Order XII Rule 6 is to expedite the judicial process through the swift delivery of judgments predicated on the admissions made by the defendants. The interpretative approach to this Rule should eschew undue restrictiveness, ensuring its invocation when unequivocal admissions by one party substantiate the entitlement of the opposing party to succeed. Consequently, the Rule ought to be applied in scenarios where incontrovertible admissions preclude the admitting party from prevailing.

18. Further, in the case of *Himani Alloys Ltd. v. Tata Steel Ltd*², the Supreme Court articulated that Order XII Rule 6, being an enabling provision, bestows discretionary authority rather than imposing an obligatory mandate. The Court must judiciously exercise this discretion, cognizant that a judgment predicated on admission bypasses trial, thereby irrevocably precluding the defendant from pursuing appellate remedies on merits. Ergo, the exercise of discretion should be circumscribed to instances where the admission is unequivocal, unambiguous, and unconditional.

19. In the recent adjudication of *Rajesh Mitra v. Karnani Properties Ltd.*³, the Supreme Court accentuated that Order XII Rule 6 hinges on the nature of admissions and the holistic factual matrix of each case. The provision's *raison d'etre* is the expeditious resolution of suits, yet its application should be tempered with caution. Judicial discretion should not be exercised unless there is a definitive, unequivocal admission, as such

¹ (2000) 7 SCC 120

² (2011) 15 SCC 273



judgments preclude the parties from contesting the matter on merits in appellate proceedings.

20. The legal position with respect to the discretionary power of the Court conferred under Order XII Rule 6 stands abundantly clear and states that the rule aims to expedite judicial proceedings by enabling a party to obtain a prompt judgment when the other party has made clear, unequivocal, and unconditional admissions. However, the court must exercise judicial discretion and only apply this rule when the admissions are explicit and deliberate.

21. The Court is of the considered opinion that in the present case, there is no incontrovertible admission of the recovery of the contested amount and the same would require comprehensive scrutiny and deliberation. Therefore, the relief prayed for cannot be granted.

22. In view of the aforesaid, the application stands disposed of reserving all rights and contentions of the parties.

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23. List this matter for framing of the issues on 29.04.2025.

24. In the meantime, let the parties to place on record their respective proposed issues.

25. Interim order to continue till the next date of hearing.

PURUSHAINDRA KUMAR KAURAV, J
FEBRUARY 17, 2025/p/dp

[Click here to check corrigendum, if any](#)