



2025:DHC:6892



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 13th August, 2025*

+ CM(M) 1721/2023 & CM APPL. 54657/2023

M/S JAI DURGA INDUSTRIESPetitioner

Through: Mr. Amar Nath Saini with Mr. Karan
Gupta, Advocates.

versus

M/S PHOOL CHAND BHAGAT SINGHRespondent

Through: Mr. Sanjay Kumar Verma with Mr.
Amit Kumar, Advocates.**CORAM:****HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

1. Petitioner is defending a suit which is commercial in nature.
2. The suit was filed under summary procedure and the learned Trial Court has granted conditional *leave to defend* to the defendant, thereby directing defendant to submit a bank guarantee for a sum of Rs. 40,00,000/- within a period of 90 days.
3. Such order is under challenge.
4. According to petitioner, the order is self-contradictory as learned Trial Court, itself, recorded in the impugned order that there were triable issues with respect to the territorial jurisdiction and it also observed that there was also a question mark with respect to the transactions in question which could only be clarified and explained during the trial.
5. It is argued that in view of the abovesaid specific observations made by the learned Trial Court, it was a fit case for grant of *unconditional leave to defend*.
6. It is noticed that when the present petition was taken up by this Court on 19.10.202, though no stay of proceedings was given, there is no headway in the abovesaid suit as it, reportedly, continues to be at the same stage.



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7. The plaintiff is seeking recovery of Rs. 81,14,860/- and according to plaintiff, the defendant had been purchasing goods/items from them and as per their statement of account, the abovesaid amount was due and outstanding. According to them, in discharge of such liability, the defendants had even issued four cheques. However, when presented, all such cheques returned unpaid with remarks “*payments stopped by the Drawer*”.

8. The stand of the defendant, whereas, is to the effect that the goods were of inferior and cheap quality and despite their asking the plaintiff to replace or return, nothing was done.

9. Learned Trial Court took note of various transactions and after perusal of the documents filed by the plaintiff i.e. Tax invoices, ledger accounts, cheques and e-way bills was of the view that there were *major contradictions* in the case of the plaintiff. It also went on to record that since the invoices reflected that the office of the plaintiff was in Faridabad, Haryana and the goods were also supplied at Bahalgarh, Sonipat, Haryana, there was triable issue with regard to aspect of territorial jurisdiction.

10. As already noticed above, it was not fully convinced with documents of plaintiff and held that explanation would come forth only when there is a comprehensive trial.

11. Undoubtedly, the defendants have not placed on record any document which may indicate that the goods in question were of inferior or cheap quality and this Court is also very much conscious of the fact that they had also issued cheques which returned dishonored with the remarks “*payments stopped by the Drawer*” but when the learned Trial Court itself take note of the fact that the transactions were not amply clear and that there was not enough of clarity with respect to the territorial jurisdiction, it was not



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appropriate on the part of learned Trial Court to have, simultaneously, put such an onerous condition while granting *leave to defend*.

12. Resultantly, the present petition is allowed and as a necessary corollary, the defendants are held entitled to *unconditional leave to defend*.

13. Since the written statement has, so far, not been presented before the learned Trial Court and the suit in question is commercial in nature, the defendants i.e. petitioner herein are directed to file written statement within a period of four weeks from today.

14. Learned counsel for petitioner ensures to do the needful within the abovesaid period.

15. It is clarified that there would not be any further extension in this regard as the suit has already delayed considerably.

16. Learned Trial Court is requested to make best effort to decide the abovesaid suit as expeditiously as possible and preferably within a period of one year.

17. Needless to say, both the sides would render their cooperation and due assistance to the leaned Trial Court. It is also clarified that the observations contained herein are tentative in nature and learned Trial Court shall decide the suit as per evidence adduced by the parties, without being influenced by present order.

18. Petition stands disposed of in aforesaid terms.

19. Pending application also stands disposed of.

(MANOJ JAIN)
JUDGE

AUGUST 13, 2025/sw/SHS