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

% **Date of Decision: 19th March, 2025**

+ **CM(M) 514/2025 & CM APPL. 15965-15967/2025**

SUDHIR AGARWAL

.....Petitioner

Through: Mr. Rajat Gautam, Advocate.

versus

TIRUPATI INDUSTRIES

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is aggrieved by order dated 24.10.2024 passed by learned District Judge, Commercial Court – 05, Central District, Tis Hazari, whereby his application moved under Section 10 CPC has been dismissed. Said suit is at the stage of final arguments.
2. Petitioner is defending the abovesaid commercial suit and he himself had also filed a civil suit at Mathura.
3. The abovesaid application filed under Section 10 CPC was on the premise that the matter in issue in both the abovesaid suits, which are between the same parties, is directly and substantially the same and, therefore, the continuance of the suit in Delhi is against the principle laid down under Section 10 of CPC.
4. This Court has seen the copies of complaints of both such suits.
5. The suit, which is prior in time, is the one filed by the petitioner herein before the Court of learned Civil Judge, Senior Division, Mathura. As per the averments made in the abovesaid suit, the



plaintiff (petitioner herein) had accepted the proposal to become dealer and super stockist of defendant No.1 for Mathura city.

6. The prayers in the abovesaid suit is as under:-

- a. *That this Hon'ble Court may graciously decree the suit in favor of the plaintiffs for a mandatory injunction against the defendants, directing them to continue supplying goods to the plaintiffs' dealer/super stockist at Mathura without any interruption. Furthermore, the defendants should also pay ₹15,00,000/- as compensation for the loss caused to the plaintiffs.*
- b. *That the costs of the suit be awarded to the plaintiffs and made payable by the defendants.*
- c. *That any other relief deemed appropriate by this Hon'ble Court in favor of the plaintiffs and against the defendants may also kindly be granted."*

7. His adversary has filed a *commercial suit* in Delhi and in such commercial suit, the plaintiff (respondent herein) seeks recovery of Rs.5,13,605/- with respect to the material which was supplied through various bills and invoices and, according to him, despite the fact that the material was supplied to petitioner herein, the amount is yet unpaid.

8. The abovesaid commercial suit contains following prayers:-

- a) *a decree in favour of the plaintiff and against the defendant for recovery of Rs5,13,605/- (Rupees five lakh thirteen thousand six hundred five Only) alongwith pendentelite and future interest @ 18% p.a. from the date of filing the suit till realization of the amount.*
- b) *Cost of the suit may also be awarded in favour of the plaintiff and against the defendant.*
- c) *Any other and further order(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances mentioned above be passed in favour of the plaintiff and against the defendant."*

9. Though the parties are same in both the abovesaid suits but fact remains that the reliefs sought in both the suits dissimilar. It hardly



matters whether both the cases trace their genesis from same 'business agreement' as the relief sought in said two cases are different. The commercial suit filed in Delhi seeks recovery with respect to the material supplied whereas the suit filed before learned Civil Judge, Mathura Court, seeks compensation for a sum of Rs.15 lacs for the losses caused to the plaintiffs therein.

10. By no stretch of imagination, it can thus be said that the issues involved in both the suits are same and similar.

11. This Court, therefore, does not find any substance or merit in the present petition and the same is, accordingly, dismissed in *limine*.

12. Pending applications, if any, are also disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

MARCH 19, 2025/st/SS