



2025:DHC:11313



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

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Date of Decision: 8th December 2025

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CS(COMM) 195/2022 with I.A. 4918/2022

**M/S. SHELTERA CONSTRUCTION THROUGH ITS
PROPRIETOR SH. HARISH KUMAR**

.....Plaintiff

Through: Mr. Rahul Sharma, Mr. Rajinder
Juneja, Mr. Mani Kant, Ms. Shikha
Singh, Mr. Rohit, Ms. Praneeta and
Ms. Sonika, Advocates.

Versus

**U.P. STATE BRIDGE CORPORATION LTD. THROUGH ITS
DIRECTOR** Defendant

Through: Mr. Divyanshu Sahay, Ms. Shradha
Narayan and Mr. Akshay Sahay,
Advocates.

CORAM:**HON'BLE MR. JUSTICE AMIT BANSAL****AMIT BANSAL, J. (Oral)****I.A. 4918/2022**

1. This application has been filed on behalf of the plaintiff seeking exemption from serving separate notice under Section 80 of the Code of Civil Procedure, 1908 (hereinafter 'CPC') upon the defendant.
2. The present suit has been filed seeking recovery of Rs. 5,55,79,977/-, which as per the plaintiff is due and payable by the defendant towards the work done by the plaintiff at the behest of the defendant as per an Agreement dated 14th October, 2016.

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3. The plaintiff had sent a legal demand notice dated 19th February, 2019 to the defendant whereby the plaintiff called upon the defendant to make payment of the balance amount of Rs. 3,03,81,643.73/- along with interest at the rate of 18% per annum.
4. The said demand notice was duly served upon the defendant and the defendant replied to the said demand notice *vide* response dated 30th March, 2019 disputing the claim of the plaintiff.
5. Subsequently, the parties also resorted to the pre-institution mediation proceedings prescribed under Section 12A of the Commercial Courts Act, 2015.
6. The defendant duly participated in the mediation proceedings. However, the dispute between the parties could not be settled.
7. It is submitted on behalf of the plaintiff that the aforesaid demand notice, even though not specifically termed as a notice in terms of Section 80 of the CPC, fulfils all the requirements of a notice under Section 80 of the CPC.
8. Counsel appearing on behalf of the defendant submits that the aforesaid notice is not a notice in terms of Section 80 of the CPC and hence, the present suit is liable to be rejected. He places reliance on the judgment of the Constitutional Bench of the Supreme Court in ***Amar Nath Dogra v. Union of India***, AIR 1963 SC 424, and ***Orissa State Financial Corporation v. Vigyan Chemical Industries***, 2025 SCC OnLine SC 1609.
9. He further submits that in the said notice, the plaintiff had only expressed its intent to take up the matter before the national Board for Micro, Small and Medium Enterprises, and not any intention to institute a



law suit.

10. I have heard counsel for the parties.

11. The short issue to be decided by the Court is whether the demand notice issued by the plaintiff on 19th February, 2019 qualifies as a notice under Section 80 of the CPC.

12. At this juncture, it may be relevant to refer to paragraphs 6 and 9 of the aforesaid notice, which are set out below:

*“6. After the completion the work upto Rs. 4,04,72,788.73, **for the balance amount of Rs.3,03,81,643.73** after adjusting the advance payment as received by my client as the then my client had completed the work upto Rs.4,04,72,788.73 as per the aforesaid contract. My client repeatedly reminder you the noticee for payment of the balance amount, inter-alia vide Bill/letter dated 12.09.2017 & 13.10.2017, but no avail. The representatives of my client also from time to time personally met the officers of the noticee, however on every such occasion you noticee pleaded helplessness due to acute Govt. financial constraints being faced by you. You noticee failed to make payment of the aforesaid outstanding amount despite repeated requests and demands of my client. You noticee had also admitted your aforesaid liability and issued Form 26 AS and deducted the TDS on total amount of Rs.3,088,4686.00 pertaining to the Assessment Year 2017-18 but actually you noticee did not make the aforesaid payment to my client as details shown in the Form 26 AS. Yow noticee thus have also committed the offence of cheating punishable under relevant Sections of Indian Penal Code.*

*9. In the premises, on the instructions of my client, **I hereby call upon you as a last chance that you make payment of the outstanding amount of Rs.3,03,81,643.73 together with overdue interest thereon @ 18% p.a. calculated from the date of the respective work as done by my client and Rs.50.00 lacs towards compensation for committing breach of the terms of agreement**, within 15 days of the date of receipt of this notice by you. In the event of your failure to comply with the requirements of this notice within the period stipulated above, my client shall be at liberty to approach National Board For Micro, Small And Medium Enterprises. **My client shall also be at liberty to initiate such other or further legal action against you, as my client may be advised.** Please be warned that all or any such action of my client shall be entirely at your own risk and costs.”*



[emphasis supplied]

13. A perusal of the aforesaid demand notice and, more particularly, the paragraphs set out above clearly indicates that the plaintiff has called upon the defendant to pay the due amount of Rs. 3,03,81,643.73 along with interest at the rate of 18% per annum towards the work executed by the plaintiff. The aforesaid notice also called upon the defendant to pay Rs. 50 lakhs towards damages.

14. The notice also clearly stated if the aforesaid amount is not paid by the defendant, the plaintiff shall be at liberty to approach the National Board for Micro Small and Medium Enterprises as well as to initiate such other further legal action against the defendant.

15. To be noted, the aforesaid notice was also duly replied by the defendant disputing the contentions of the plaintiff.

16. Now a reference may be made to paragraph 5(aa) of the plaint, which is extracted below:

aa. Thus, on the basis of the aforesaid, the Plaintiff
now claims from the Defendant an amount of
Rs.5,55,79,977/-, as per the details given below:

Sl.No.	Particulars	Amount (In Rs.)
1.	Balance principal amount payable.	3,03,81,643.00
2.	Interest on above 3,03,81,643.00@ 18% p.a. calculated from a. October 2017 till	1,04,81,667.00



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	August 2019 [when the Pre-Litigation Mediation failed]; b. September 2019 till July 2021.	1,04,81,667
3.	Damages towards machinery (MAIT machine @ 15,00,000.00 per month, ACE Hydra @75,000.00 per month and JCB-4D @75,000.00 total amounting Rs.16,50,000.00 per month from 8.3.2017 to 23.5.2017 i.e. two months and 17 days and an	42,35,000.00
TOTAL		Rs.5,55,79,977/-

17. The amount claimed in the plaint as well as the cause of action detailed therein are in conformity with the claims made in the demand notice.

18. As highlighted by the Supreme Court in its recent judgment in **Orissa State Financial Corporation** (supra) cited on behalf of the defendant, the purpose of the notice under Section 80 of the CPC is to provide the Government an opportunity to examine the claim, reconsider its position and potentially resolve the dispute out of Court, and thereby avoiding unnecessary legal proceedings.

19. In light of the facts and circumstances of the present case, in my considered view, the demand notice sent by the plaintiff clearly fulfils the aforesaid objective.

20. In **Amar Nath Dogra** (supra), relied upon on behalf of the defendant, the Supreme Court dismissed the appeal for non-compliance of Section 80 of the CPC on the ground that there was a radical difference between the circumstances when the impugned notice was issued and when the plaint was filed. There was also a difference between what was claimed in the impugned notice and the reliefs claimed in the plaint. The relevant



observations made by the Court in **Amar Nath Dogra** (supra) are extracted below:

*“14. ...When one comes to the plaint however, the entire basis or rather the cause of action is changed. By that date the contract had been terminated, the licence having been suspended and afterwards the Collector had taken over the management of the shops under Section 39 of the Punjab Excise Act. **There was, therefore a radical difference between the state of circumstances when the impugned notice was issued and when the plaint was filed which is reflected in the allegations made in the two documents and the reliefs claimed in each.** In summary, the notice was based on the breach of stipulations in a contract which had not been broken and was still subsisting. In that sense, it would be the items claimed in respect of each breach that would constitute a cause of action in the technical sense and it was on their account that the sum of Rs 74,935/8/3 was claimed as damages. In the plaint, however, the cause of action was different. By that date the allegation was that the contract had been broken by the government repudiating it and taking over the shops after cancelling the licence. The cause of action then was the breach of the entire contract and the items set out in the plaint were the heads of claim under which the damages were computed. **In view of these circumstances we have no hesitation in holding that even on a very narrow and strict view of Section 80 there was no compliance with its terms.**”*

[emphasis supplied]

21. Therefore, in the facts and circumstances of the present case, the judgment in **Amar Nath Dogra** (supra) would not be applicable.
22. In view of the above, the demand notice dated 19th February, 2019 is to be treated as a notice for the purposes of Section 80 of the CPC and no separate formal notice in terms of Section 80 of the CPC was required to be served upon the defendant.
23. The application stands disposed of.



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24. List for framing of issues on 9th February, 2026.

AMIT BANSAL, J

DECEMBER 8, 2025

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