



2026:DHC:1601-DB



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

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Judgment reserved on: 09.02.2026

Judgment pronounced on: 24.02.2026

Judgment uploaded on: 24.02.2026

+ RFA (COMM) 17/2024

MS. SHASHI GARG

...Appellant

Through: Mr. Rakesh Kumar, Adv.

versus

MS. RENU GARG (SINCE DECEASED) THROUGH HER
LRS.

...Respondents

Through: Mr. B. N. Gaur, Adv.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T

ANIL KSHETARPAL, J.

1. The present Appeal seeks to assail the judgment and decree dated 06.10.2023, passed by the Learned District Judge [hereinafter referred to as 'LDJ'], Central District, Tis Hazari Court, Delhi, whereby the suit filed by the Appellant (Plaintiff before the LDJ) seeking recovery of Rs. 45,35,025/- came to be dismissed as being not maintainable on account of non-compliance of Order VI Rule 15A of the Code of Civil Procedure, 1872 [hereinafter referred to as 'CPC'].

2. For the sake of clarity, consistency and ease of reference, the parties in the present appeal shall be referred to in accordance with their respective status before the LDJ.



FACTUAL MATRIX:

3. In order to comprehend the issues falling for the consideration before this Bench, relevant facts are required to be noticed.

4. The dispute between the parties arose out of the alleged non-payment by the Defendant (Respondent before this Court) against the goods bought from the Plaintiff (Appellant before this Court). The Plaintiff is the sole proprietor of the M/S Garg papers, engaged in the business of trading of all kinds of craft paper. In the ordinary course of this business, the Defendant approached the Plaintiff to purchase the said goods on credit basis. Accordingly, goods were supplied to the Defendant from time to time as per her demand specifications under various invoices, against which a running account was maintained by the Plaintiff in respect of these transactions.

5. Undisputedly, the parties had a long-standing business relationship under which the Defendant used to purchase goods from the Plaintiff and made payments from time to time, which were reflected in the statement of account produced by the Plaintiff before the LDJ. The payments in the aforesaid statement, included, *inter alia*, sum of Rs. 14,12,000/- for the year 2013-14, Rs. 8,75,000/- for the year 2014-15, Rs. 30,20,000/- for the year 2015-16, Rs. 10,85,000/- for the year 2016-17 and Rs. 50,000/- for the year 2017-18, aggregating to Rs. 64,42,000/-, as admitted by the son of the Plaintiff in his cross-examination.

6. It was the case of the Plaintiff before the LDJ, that as per the statement of account of Plaintiff, after giving credit for the payments



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so made, an amount of Rs. 34,50,580/- remained outstanding towards the price of goods supplied to the Defendant as on the relevant date. The said figure has been consistently referred to in the pleadings, evidence and the Impugned Judgment as the principal claim.

7. In order to discharge the aforesaid outstanding liability, the Defendant issued 12 cheques dated 08.05.2017, all of which was drawn on the Vaish Co-operative New Banck, Rohini, Delhi in favour of the Plaintiff. However, upon presentation, most of the aforesaid cheques were dishonoured with the remark 'funds insufficient, whereas one of the cheques bearing no.691106 was returned with a remark, wrongly delivered/not drawn on us. A further representation was again made in respect to the aforesaid cheque, however, the same was again returned with the remark 'account closed' as reflected in the cheque return memo dated 16.05.2017.

8. Whereafter, the Plaintiff took an initiative to communicate the issues pertaining to the cheque to the Defendant, however, upon failure on part of the Defendant to fulfil its demand, the Plaintiff sent a legal notice dated 17.05.2017 to the Defendant, following which a case under Section 138 of the Negotiable Instruments Act, 1881 was also filed by the Plaintiff. Simultaneously, the Plaintiff also filed a recovery suit against the Defendant for a sum of Rs. 45,35,025/- comprising of the principal outstanding amount of Rs. 34,50,080/- and an additional amount claimed towards interest, along with pendente lite and future interest.

9. The suit was initially filed as a summary suit under Order



XXXVII of the CPC, which later came to be treated as a commercial suit. During the pendency of the suit, the original Defendant passed away, whereafter, by Order dated 13.10.2022, her legal heirs, namely, Shyamal Garg, Shiva Garg, Shobhit Garg and Vasu Garg were brought on record as defendants, with the specific stipulation that they would not be personally liable for any recovery, if found to be due, and the same would be confined to the estate inherited by them from the Original Defendant.

10. After hearing the parties at length, the LDJ, framed five issues for its consideration, which are set out hereinafter. *Firstly*, whether the suit was time barred with respect to the transaction/invoices prior to the 01.01.2016. *Secondly*, whether the suit was maintainable in the present form. *Thirdly*, whether the Defendant has already made payment of entire outstanding amount to the Plaintiff. *Fourthly*, whether the Plaintiff was entitled to recovery of amount of Rs. 45,35,025/- from the Defendant. *Lastly*, whether the Plaintiff is entitled to pendente lite and interest, if yes at what rate.

11. With respect to the first issue regarding the suit being barred by limitation, the LDJ taking into consideration Section 19 of the Limitation Act, 1963 held that the suit was not barred by limitation, as the period of limitation commenced from 10.02.2017, the last date when the payment was made by the Defendant.

12. With respect to the second issue pertaining to the suit being maintainable or not, it was held by the LDJ that the entire pleadings filed by the Plaintiff is liable to be strike off owing to the non-



compliance of Order VI Rule 15 (A) of the CPC which provides that in a commercial suit, a pleading needs to be attested at each and every page and has to necessarily have the Statement of Truth attached with it. Reliance in this regard has been placed on the division Bench judgment of this Court in *RFA (Comm) No. 2/2021* captioned *M/s. AV industries v M/s. NEON Electricals Pvt. Ltd.*, wherein the Court set aside an ex-parte judgment and decree owing to the non-compliance of Order VI Rule 15A of the CPC.

13. On account of Issue No.3 & 4, being overlapping and interconnected, the said issues were decided together, and taking into consideration, the documentary evidence produced, statement of witnesses, it was held that the Plaintiff was entitled to a sum of Rs. 29,64,404/- as a principal amount along with interest at the rate of 18% per annum from 09.05.2017, date following the dishonour of cheques, till the date of filing of the suit.

14. While reaching to the aforesaid figure of the recoverable amount, the LDJ treated the ledger of the Plaintiff as the starting point. It was noted that a total balance of Rs. 34,50,580/- was shown to be payable, break up of which shows, an amount of Rs. 29,64,404/- payable as balance of goods, whereas the remaining sum amounting to Rs. 5,36,176/- was shown as interest. While scrutinising the said element of the interest in the ledger, it was noted by the LDJ that the statement for earlier years did not demonstrate any interest chargeable, despite the fact that the payments were being made on account and not bill-wise. Taking into consideration the aforesaid, it was noted that the Plaintiff had suddenly entered the figure of Rs. 5,36,176/- in its



ledger, hence, was not liable for recovery for the same.

15. With respect to Issue No.5, pertaining to the pendente lite and future interest, the LDJ observed that although the Defendant is liable to pay interest to the Plaintiff, however, in view of the findings under Issue No.2, since the Plaintiff is not entitled to any amount, no question pertaining to pendente lite and future interest arises.

16. Aggrieved by the aforesaid dismissal of her suit by way of the Impugned Judgement, the Plaintiff has now approached this Court seeking our indulgence in the matter at hand.

17. We have heard learned counsel for the parties, and with their able assistance have perused the paperbook.

CONTENTIONS OF THE PARTIES:

18. Learned Counsel representing the Plaintiff contended that, although no application for curing the defect pertaining to the requirement under Order VI Rule 15A of the CPC has yet been filed, if given an opportunity, the Plaintiff undertakes to file the appropriate application. It was further submitted that the failure to file the said application occurred since the suit was originally instituted as a summary suit and was subsequently converted into a commercial suit.

19. *Per contra*, learned counsel representing the Defendant argued that the Plaintiff was given sufficient opportunity, however, the Plaintiff failed to cure the defect until the stage of framing of issues. It was further argued that the Impugned Judgment requires no interference by this Court, since the same has been passed in



compliance with the judgment of this court in *M/s. A V Industries (Supra)*.

ANALYSIS AND REASONING OF THIS COURT

20. This Court has considered the submissions made by learned counsel representing the parties.

21. In the considered view of this Court, the controversy that falls for adjudication in the present appeal lies in a narrow compass, where the LDJ while returning findings on the merit of the case in favour of the Plaintiff by way of Issue No.3 and 4, went on to dismiss the suit for non-compliance with the requirements as stipulated under Order VI Rule 15A of the CPC, as applicable to commercial disputes.

22. Order VI Rule 15A of the CPC mandates the filing of a Statement of Truth and attestation of pleadings in commercial suits. Undoubtedly, the said provision is couched in mandatory terms and is intended to ensure procedural discipline, expedition and sanctity of pleadings in litigation arising out of disputes of commercial nature. However, against the aforesaid backdrop, this Court finds itself pondering upon the dilemma, as to whether a non-compliance of the said provision, particularly, in absence of any prejudice being caused to the party defending the suit, that too after full trial on merits, could be considered as fatal to the very institution of the suit.

23. It is trite that procedural law, is merely a handmaid of justice, and as such a defect of form, unless it goes to the root of jurisdiction or causes irremediable prejudice, does not convince the conscience of



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this Court to eclipse the substantial rights of the party and consequently its adjudication.

24. In the present case, a perusal of the Impugned Judgment and the record leaves little doubt that the *lis* between the parties stood fully crystallised and adjudicated on evidence. Notably, the parties led evidence, witnesses were cross-examined, documentary material was scrutinized, and a conclusive finding was arrived at on the merits of the case. Whereafter, the LDJ, after a meticulous examination of the ledger account Ex. PW1/10, the series of invoices, the twelve cheques issued by the Defendant on 08.05.2017, and their subsequent dishonour, as well as the cross-examination of PW-2 and DW-1, arrived at a categorical conclusion that the Plaintiff is indeed entitled to recovery of a principal sum of Rs. 29,64,404/- towards the price of goods supplied.

25. In such circumstance, to dismiss the suit, solely on account of a curable procedural defect, particularly and pertinently, when the suit was originally instituted as a summary suit, which later was treated commercial suit, would amount to elevating procedure over substance. Pertinent to note it is that the omission to file a Statement of Truth, though a serious procedural irregularity, remains a defect capable of rectification. Notably, the said defect, in the facts of the present case, neither strike at the very jurisdiction of the Court nor does it render the proceedings void ab initio.

26. At this stage, we also deem it appropriate to highlight that the judgment in *M/s. A V Industries (Supra)* as relied upon by the LDJ



and also highlighted during the course of argument before this Court, must be understood in its factual context. A careful reading of the said judgment reveals that the attention of the Court was not drawn to usage of the word 'may' in Order VI Rule 15A (5) of the CPC, which confers discretionary power upon the Court with respect to striking out a pleading. Moreover, the said matter is distinguishable on account of its peculiar facts and circumstances. In that case, the challenge was against an *ex-parte* decree, wherein one of the parties was not afforded an opportunity before the Trial Court to lead its evidence. Additionally, during the course of arguments in that case, no undertaking was given by the Plaintiff to file a Statement of Truth, a circumstance which is not present in the matter currently before this Court.

27. Therefore, this Court is of the opinion that the Impugned Judgment, to the extent it dismisses the suit despite returning findings on merits in favour of the Plaintiff, cannot be sustained. The defect under Order VI Rule 15A CPC being procedural and curable, the Plaintiff ought to be afforded an opportunity to rectify the same.

CONCLUSION:

28. In view of the foregoing discussion, the Impugned Judgment is set aside. The Plaintiff is granted liberty to file an appropriate application to comply with the requirement prescribed under Order VI Rule 15A of the CPC, within a period of 04 weeks from the date of this judgement.

29. Accordingly, the LDJ, upon compliance by the Plaintiff, shall



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proceed to pass a fresh decree in accordance with the findings already returned on Issue Nos.3 and 4, along with determining the entitlement, if any, of the Plaintiff to pendente lite and future interest in accordance with law.

30. In view of the aforesaid direction, the present Appeal is disposed of.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

FEBRUARY 24, 2026

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