

\$49, 51 & 53

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

+ CM(M) 672/2013

M/S VARUN UDDYOG ..... Petitioner  
Through Mr.D.K.Mehta, Adv. with  
Mr.V.K.Kalra, Adv.

versus

M/S INDIAN SULPHACID INDUSTRIES LTD ..... Respondent  
Through None

+ CM(M) 676/2013

SHRI RAHUL GUPTA ..... Petitioner  
Through Mr.D.K.Mehta, Adv. with  
Mr.V.K.Kalra, Adv.

versus

M/S INDIAN SULPHACID INDUSTRIES LTD ..... Respondent  
Through None

+ CM(M) 674/2013

DINESH MITTAL & ANR ..... Petitioners  
Through Mr.D.K.Mehta, Adv. with  
Mr.V.K.Kalra, Adv.

versus

M/S INDIAN SULPHACID INDUSTRIES LTD ..... Respondent  
Through None

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN SINGH**

Signature Not Verified  
Digitally Signed  
By:AMULYA

Assistant Registrar (Civil)/Dy.Registrar (App.)  
I.D.No.....

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**ORDER**  
% 09.07.2013

**C.M. No.10118/2013 (exemption) in CM(M) No.672/2013**  
**C.M. No.10137/2013 (exemption) in CM(M) No.676/2013**  
**C.M. No.10131/2013 (exemption) in CM(M) No.674/2013**

Exemptions allowed, subject to just exceptions.

The applications are disposed of.

**CM(M) No.672/2013 & C.M. No.10117/2013 (for stay)**  
**CM(M) No.674/2013 & C.M. No.10130/2013 (for stay)**  
**CM(M) No.676/2013 & C.M. No.10136/2013 (for stay)**

The petitioner assails the impugned order dated 6<sup>th</sup> May, 2013 wherein three additional issues were framed on the application filed by the petitioner/defendant under Order XIV, Rule 5 CPC. The only contention of learned counsel for the petitioner is that while disposing of the application of the petitioner on issue No.1, the learned trial court has wrongly put the burden of proof upon the petitioner instead of respondent who is plaintiff in the suit. According to him, in view of the objection raised by the defendant/petitioner, the plaintiff/respondent has to prove as to whether the plaint has been signed, verified and instituted by the duly authorized person/competent person. Counsel states that in the impugned order, with regard to issue No.1 the burden has been put upon the petitioner as "OPD" instead of "OPP". After hearing learned counsel for the petitioner as well as having considered the pleadings in the matter, I agree with the submission of the learned counsel for the petitioner. Hence, the impugned order dated 6<sup>th</sup> May, 2013 is modified only to the extent that the issue No.1 shall be read as under:

"1) Whether the suit has been signed, verified and instituted by the

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duly authorized person? OPP”

All the petitions as well the applications are accordingly disposed of.  
Dasti.

  
MANMOHAN SINGH, J.

JULY 09, 2013/ka