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

+ CS(OS) 1425/2014

M/S PLANET ADVERTISING (P) LTD Plaintiff

Through: Mr. Sanjiv Bahl and Mr. Eklavya
Bahl, Advs.

versus

KINGFISHER AIRLINES LIMITED & ANR. Defendants

Through: None for D-1.

Mr. Om Prakash and Ms. Anuradha
Lall, Advs. for D-2.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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17.09.2015

Plaintiff has filed this suit for recovery of ₹25,84,120/- together with pendent-lite and future interest @ 24 % per annum against the defendant no.1. A perusal of prayer clause shows that decree has been prayed against the defendant no.1 only. Learned counsel for the plaintiff submits that defendant no.2 has been impleaded as performa party since defendant no.2 was also involved in the dealings between the plaintiff and defendant no.1. He further submits that no relief has been claimed qua defendant no.2, therefore, defendant no.2 may be deleted from the array of parties. Ordered accordingly. Amended memo of parties be filed during course of the day. Henceforth defendant no.1 will be referred to as 'defendant'.

Defendant has been duly served and, in fact, appeared before the Joint Registrar on 11th September, 2014 through Ms. Gauri Rishi, Advocate. Defendant was granted four weeks time to file written statement. However, written statement has not been filed by the defendant despite opportunity granted to it, therefore, vide order dated 27th July, 2015 learned Joint Registrar has closed the right of defendant to file written statement. Even counsel for the defendant has stopped appearing.

Plaintiff has alleged in the plaint that defendant approached the plaintiff for displaying outdoor advertisements at various sites of the plaintiff at Delhi, Noida and Greater Noida and placed purchase orders on the plaintiff, at agreed rates. Plaintiff displayed the advertisements for a period ranging from 15 days to one month and raised bills bearing no. 231, 323 and 324 dated 20th September, 2011, 18th November, 2011 and 18th November, 2011 for ₹8,82,400/-, ₹6,06,650/- and ₹2,48,175/- respectively. Total bill amount involved in the said bills is ₹17,37,225/-. Despite requests of the plaintiff, defendant did not make payment and instead offered the plaintiff 'Barter Tickets' of defendant's airlines amounting to ₹10,93,000/- in the month of May, 2012. However, plaintiff could use tickets worth ₹37,146/- only out of the total amount of the 'barter tickets', when defendant

abruptly stopped its operations thereby leaving behind ₹17,00,079/- as due and payable.

Plaintiff has claimed this amount together with interest @ 24% per annum with effect from 1st January, 2012 in this suit. The fact remains that principal amount claimed is ₹17,00,079/- only and rest of the portion of suit amount is interest component @ 24% per annum.

Defendant has failed to file written statement despite opportunity granted to it, inasmuch as, its opportunity to file written statement has been closed by the Joint Registrar. Accordingly, a decree is passed under Order 8 Rule 10 CPC in favour of the plaintiff and against the defendant-Kingfisher Airlines Limited for ₹17,00,079/- together with interest @ 12% per annum with effect from 1st December, 2011 till realisation of the decretal amount. Decree sheet be drawn accordingly.

A.K. PATHAK, J.

SEPTEMBER 17, 2015

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