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

+ CS(OS) 2114/2012

INDU GOEL

..... Plaintiff

Through : Mr. Rishi Manchanda, Adv.

versus

M/S LAKHANI INDIA LTD

..... Defendant

Through : None

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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04.11.2015

1. Plaintiff has filed this suit for recovery of Rs.30,26,911.86 together with pendente lite and future interest @ 18% per annum under Order 37 of the Code of Civil Procedure, 1908 (CPC). Plaintiff is the sole proprietor of a firm, that is, M/s. Reliable Industries and is carrying on manufacturing and trading of carry bags/packing bags/L.D. poly bags. It is alleged that plaintiff supplied carry bags/packing bags/L.D. poly bags to the defendant from time to time on request of the defendant. Statement of account was maintained by the plaintiff. According to which, a sum of Rs.34,39,015.31 was due as on 10th June, 2012. Defendant had also issued Form-C in respect of the bills. Said amount was not paid by the defendant despite notice dated 19th

June, 2012. No relief, which does not fall within the ambit of Order 37 of the CPC, was claimed in the plaint. Defendant was duly served and entered appearance. On an application filed by the plaintiff, summons for judgment were issued to the defendant. Defendant filed an application being IA No. 6940/2013 under Order 37 Rule 3 (5) of the CPC and prayed for grant of leave to defend the suit. No one has appeared for the defendant to argue the application for leave to defend. Even on the last date of hearing, defendant had remained unrepresented. Accordingly, IA No. 6940/2013 under Order 37 Rule 3 (5) of the CPC is dismissed in default.

2. Order 37(3)(6)(a) provides that if the defendant has not applied for leave to defend, or if such application has been made and is refused, the plaintiff shall be entitled to judgment forthwith. In this case, defendant had applied for leave to defend, but the same has been dismissed in default. Accordingly, plaintiff is entitled to judgment forthwith.

3. In view of the above, a decree is passed in favour of the plaintiff and against the defendant in the sum of Rs.30,26,911.86 together with costs and interest @ 12% per annum from the date of filing of the suit till realization of the decretal amount.

A.K. PATHAK, J.

NOVEMBER 04, 2015/rb