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

+ **CS(OS) 2268/2014**

SIPKA SALES CORPORATION

..... Plaintiff

Through: Mr.Hardik Luthra and
Mr.Nivesh Kumar, Advocates

versus

RAJALAKSHMI PAPER MILLS PVT LTD.

..... Defendant

Through: Mr.Aravindh S., Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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01.09.2016

I.A. No. 19277/2015 (by the defendant under Order IX Rule 13 CPC)
and I.A. No. 19278/2015 (by the defendant under Section 5 of the
Limitation Act for condonation of delay of 213 days in filing I.A. No.
19277/2015)

1. Learned counsel for the plaintiff states that during the pendency of these applications, vide order date 06.11.2015, the parties were referred to the Delhi High Court Mediation & Conciliation Centre. Pursuant thereto, a Settlement Agreement dated 14.12.2015 was executed between the parties whereunder, the defendant had agreed to pay a sum of Rs.22 lacs to the plaintiff and had issued three post dated cheques, out of which two cheques were for a sum of Rs.7,75,000/- each and one cheque was for Rs.6,50,000/-.

2. Learned counsel for the plaintiff states that all the three cheques mentioned above when presented, were returned by its Bankers on being

dishonoured on 18.12.2016, 22.1.2016 and 18.2.2016. Thereafter, the defendant had issued five demand drafts in favour of the plaintiff, starting from 20.2.2016 till 23.8.2016. It is submitted that the defendant having breached its obligations, as recorded in the Settlement Agreement dated 14.12.2015, the plaintiff is entitled to invoke clause (d) of para 6 of the Settlement Agreement, which is reproduced herein below:-

6 (d) “That the Defendant company has assured, promised and represented to the plaintiff that the aforesaid cheques shall be honoured for payment on presentation on their respective due and dates and in the even of dishonour of any cheque(s), the defendant shall be liable for contempt of court. The plaintiff shall also have all its legal remedies available to it for recovery of the decreed amount in the suit with interest @ 18% per annum besides, its right to seek recovery of the cheque amount under the provisions of the Negotiable Instrument Act, 1881.”

3. It has been suggested to learned counsel for the plaintiff that if the defendant is called upon to compensate the plaintiff by paying interest on the amounts, subject matter of the three cheques with effect from the dates when the same were due and payable, till the amounts were realized, would the plaintiff be willing to accept the same as compensation for the delayed payment. He states that the plaintiff is agreeable to the said suggestion on the condition that the entire interest amount shall be paid by the defendant at one go. Further, he states that having regard to the past conduct of the defendant, the said amount may be directed to be paid through a demand draft.

4. Learned counsel for the defendant that his client is agreeable to the aforesaid suggestion, but requests that a period of four weeks be granted to make the payment.
5. The defendant is directed to pay interest @ 12 % per annum on the defaulted amounts due and payable as per para 6(b) of the Settlement Agreement dated 14.12.2015, till the same were realized, on handing over of the demand drafts to the plaintiff between February to August, 2016. The said amount shall be paid by the defendant through a demand draft drawn in favour of the plaintiff, within three weeks from today.
6. The applications are disposed of.
7. It is made clear that if the interest amount is not paid by the defendant within the prescribed timeline, then the plaintiff shall be entitled to invoke para 6(d) of the Settlement Agreement dated 14.12.2015, by taking appropriate steps in that regard.

HIMA KOHLI, J

SEPTEMBER 01, 2016
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