

\$~27

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 480/2016**
M/S ALPHA SERVICES

..... Petitioner
Through Mr.Apoorv P.Tripathi, Advocate.

versus

PRAVINDRA SINGH

..... Respondent
Through Nemo.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
% **17.05.2016**

C.M. No.18804/2016 (exemption)

Exemption is allowed subject to just exceptions. Application disposed of.

CM(M) 480/2016

Petitioner is aggrieved by the order dated 05.02.2016 vide which the suit filed by him under the provisions of Order XXXVII of the CPC seeking recovery of an amount of Rs.22,56,617/- was treated as a simpliciter ordinary suit and not a suit under the provisions of Order XXXVII of the CPC. Petitioner is aggrieved by that finding.

Plaintiff in para 2 has categorized his claim. It was based on two purchase orders sent by defendant to the plaintiff; two invoices issued by plaintiff to the defendant in pursuance of the aforesaid two purchase orders; the defendant had also issued 15 post dated cheques

in favour of the plaintiff towards partial discharge of its liability to the plaintiff; out of which 5 cheques were dishonoured upon presentation by the plaintiff. This is stated in para 2 of the plaint. In the remaining part of the plaint i.e. on paras 26 and 30 details of 8 dishonoured cheques have been mentioned. Plaintiff is confused. He does not know whether there were 5 cheques or 8 cheques which stood dishonoured. Submission on this count is that this is an inadvertent mistake. That apart the fate of the other cheques was still not known to the plaintiff. There is also no mention of the same in the plaint. Some of the cheques were admittedly yet to be presented.

In this background the Trial Judge had rightly noted that a crystallized amount has not been mentioned in the plaint for which the suit could be treated as a suit under Order XXXVII of the CPC and which is the mandate contained in aforenoted provision of law.

The impugned order having treated the suit as an ordinary suit under Order XXXVII of the CPC calls for no interference.

Petition is without any merit. It is dismissed with cost of Rs.10,000/-.

INDERMEET KAUR, J

MAY 17, 2016
ndn