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

+ **CM(M) 446/2015 & CM No.8878/2015**

MOHIT JINDAL & ANR Petitioners

Through **Mr.S.C.Singhal, Advocate**

versus

M/S AALIDHRA TECHTEX PVT LTD Respondent

Through **Mr.Shailender Dahiya & Mr.Pradeep
Ahlawat, Advocates**

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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27.10.2016

1. By the present petition filed under Article 227 of the Constitution of India, the petitioners seek to impugn the order dated 21.04.2015 by which the application of the petitioners under Order 37 Rule 3(5) CPC for grant of leave to defend the suit was partly allowed subject to the condition that the petitioners must deposit a sum of Rs.7,00,000/-.
2. The respondent has filed the present suit for recovery of Rs.15,62,061/-. The suit was filed on account of fabrics supplied to the petitioners. The suit is based on 23 invoices said to have been raised by the respondent for a total sum of Rs.12,53,883/-. Balance claim is for interest.
3. In the application for leave to defend, the petitioners have raised various defences, some of which are a) that the fabrics received against six invoices were defective; b) the promise was made by the petitioners by letter

dated 04.04.2013 for giving credit of Rs.10.00 per meter discount if the petitioners will lift 10,000 meters or more of cloth of all qualities with financial year 2013-2014; c) payments were made by the petitioners which were not reflected in the plaint and d) various credit notes have been raised by the respondents which are given but as per the petitioners no credits have been given of the said notes.

4. A perusal of the impugned order shows that instead of going into the merits of the contentions of the parties, the trial court merely ordered as follows:

“I have considered all the facts and circumstances. Since it is not in dispute that the material was supplied to the defendants, the only question for trial would be as to whether the material supplied was defective or substandard and whether some payments have been made by the defendants. In these circumstances, it is required that defendants must deposit some portion of the suit amount. The total suit amount is Rs.15,62,061/-. I direct the defendants to deposit in the court a sum of Rs. Seven lacs within one month. Subject to this condition, the defendants are granted leave to contest the suit.”

5. Clearly, a non-speaking order without reasoning has been passed and the petitioners have been granted conditional leave to defend on payment of 50% of the amount claimed in the suit.

6. It is settled position of law that a court is required to give reasons while disposing of an application/petition in this manner. The Supreme Court in *Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing Kota vs. Shukla and Brothers*, (2010) 4 SCC 785 noted as follows:-

“13. At the cost of repetition, we may notice, that this Court has consistently taken the view that recording of reasons is an essential

feature of dispensation of justice. A litigant who approaches the Court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer. Reasons are the soul of orders. Non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. A judgment without reasons causes prejudice to the person against whom it is pronounced, as that litigant is unable to know the ground which weighed with the Court in rejecting his claim and also causes impediments in his taking adequate and appropriate grounds before the higher Court in the event of challenge to that judgment. Now, we may refer to certain judgments of this Court as well as of the High Courts which have taken this view.

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19. In the cases where the Courts have not recorded reasons in the judgment, legality, propriety and correctness of the orders by the Court of competent jurisdiction are challenged in absence of proper discussion. The requirement of recording reasons is applicable with greater rigor to the judicial proceedings. The orders of the Court must reflect what weighed with the Court in granting or declining the relief claimed by the applicant. In this regard we may refer to certain judgments of this Court.”

7. As no reasons have been given and no proper adjudication done on the contentions raised by the respondent, the impugned order dated 21.04.2015 suffers from material irregularity and is set aside. The matter is remanded back to the trial court to consider afresh the application filed by the petitioners under Order 37 Rule 3 (5) CPC. The trial court is requested to

dispose of the application within three months from the date of receipt of this order.

8. The petition stands disposed of. All the pending applications also stand disposed of.

JAYANT NATH, J.

OCTOBER 27, 2016/v

