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

+ C.R.P. 9/2017

M/S DEW POINT HVAC SYSTEM & ANR.Petitioners
Through Mr.Rohit Ratta, Advocate

versus

M/S FIBERFILL INSULATIONS INDIA PVT LTD..... Respondent
Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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16.01.2017

CM APPL. 1634-1635/2017 (*exemptions*)

Allowed subject to all just exceptions.

C.R.P. No.9/2017

1. By the present petition filed under Section 115 of the CPC, the petitioners seek to impugn the order dated 28.10.2016 by which an application under Order 18 Rule 17 CPC filed by the petitioners/defendants for recalling of witness PW-1 was dismissed.
2. The respondent has filed the present suit for recovery of Rs.2,25,592.34/-.
3. It was urged in the application that the invoices exhibited by the respondent are forged, against goods which were never delivered by the respondent to the petitioners and the signatures of the respondent/defendant are also forged. Hence, it was urged that as per the subsequent development and instructions, it has come to light that the respondent has failed to disclose the material facts. Hence, recall of witness PW-1 was requested for.

4. The trial court by the impugned order noted that the invoices in question had been supplied to the petitioners along with the filing of the plaint. It also noted that extensive cross-examination of PW-1 was done on 23.02.2016 and 19.09.2016, i.e. over a time frame of seven months. No valid ground was made for recall of PW-1 and the application was dismissed.

5. I have heard the learned counsel for the petitioners.

6. A perusal of the application under Order 18 Rule 17 CPC would show that except for bald averments i.e. that it came to the light that the respondent has failed to disclose material facts, no grounds have been given for the recalling of witness PW-1. The said prayer has been rightly rejected by the trial court.

7. There is no merit in the present and the same is accordingly dismissed.

JAYANT NATH, J.

JANUARY 16, 2017/v