

\$~4

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

+ CM(M) 309/2016 and CM APPL.11923/2016 (stay)

M/S PREMIA PROJECTS LIMITED Petitioner

Through: Nemo.

versus

NITIN KUMAR Respondent

Through: Mr. Suresh Sharma, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **28.02.2018**

The petition at hand sought to assail the order dated 08.02.2016 of the Additional District Judge (ADJ) on the file of summary suit (CS No.05/2015) whereby the application of the respondent (defendant in the suit) for leave to defend was allowed without any conditions being attached thereto. The grievance of the petitioner (plaintiff) essentially is that such unconditional right to contest could and should not have been granted.

At the hearing, there is no appearance on the side of the petitioner. The learned counsel for the respondent/defendant has been heard and with his assistance the record perused.

The summary suit invoking Order XXXVII of the Code of Civil Procedure, 1908 (CPC) was filed by the plaintiff for recovery of Rs.5,00,000/- with interest, on the basis of promissory note and cheque statedly issued at the time of engagement of the respondent/defendant as an employee (Assistant Vice President – Sales). The defence raised by the

respondent/defendant is that the promissory note and the cheque were taken as security and that the plaintiff instead owes money to him for the services rendered, in which regard, he has also instituted a civil suit for recovery of Rs.36,14,000/- with interest, it being CS No.13456/2016, presently pending in the court of Raj Kumar, ADJ, Tis Hazari, Delhi.

In the above facts and circumstances, the grant of unconditional leave to defend to the respondent is found by this court to be a just and appropriate order.

The petition and the application filed therewith are dismissed.

R.K.GAUBA, J.

FEBRUARY 28, 2018

vk