

\$~10

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

+ CS(OS) 1570/2013

ARSHIT PATHAK ..... Plaintiff  
Through Mr.Ranjay N., Advocate.

versus

KINGTECH ELECTRONICS(INDIA) PVT LTD & ORS  
..... Defendants  
Through None

**CORAM:**  
**HON'BLE MR. JUSTICE MANMOHAN**

**ORDER**  
% **10.10.2018**

**I.A.No.21615/2015**

Present application has been filed under Order IX Rule 9 CPC for restoration of the present suit, which was dismissed in default on 24<sup>th</sup> September, 2015.

Keeping in view the averments in the application, the same is allowed and the present suit is restored to its original status.

Accordingly, the application stands disposed of.

**CS(OS) No.1570/2013**

Since none appears for the defendants, this Court with the assistance of learned counsel for the plaintiff has gone through the paper book and the documents on record.

It is pertinent to mention that present suit has been filed for recovery of Rs.51,55,332/- and damages of Rs.10,00,000/- against the

defendants.

Vide legal notice dated 22<sup>nd</sup> August, 2012, the plaintiff had demanded Rs.51,55,332/- as its outstanding salary, performance bonus and expenses from defendant no.1 company. The plaintiff in the plaint has also demanded Rs.10,00,000/- as damages from Directors of the defendants.

Admittedly, the plaintiff was an employee of defendant no.1 company, which has been struck off the record, during the pendency of the present case on December, 2017.

This Court is of the view that the defendant no.1 company is a juristic person and is independent and distinct from its shareholders and directors. The liability of the company cannot be fastened on its former directors, especially when the legal notice dated 22<sup>nd</sup> August, 2012, on the basis of which the present plaint has been filed, contains no allegations which warrant justification for lifting of the corporate veil.

Consequently, this Court is of the view that the liability, if any, to pay the outstanding salary, performance bonus as well as reimbursement of expenses and damages is of the defendant no.1 company. Since the defendant no.1 company has been struck off the record, this Court is of the view that no decree can be passed in favour of the plaintiff as the company itself is not in existence.

Accordingly, the present suit is dismissed.

**MANMOHAN, J**

**OCTOBER 10, 2018  
KA**