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

+ CM(M) 1300/2018 & CM APPL. 44658/2018

M/S KRISHNA AUTO SALES Petitioner

Through: Ms.Jyoti Mendiratta, Advocate.

versus

PEARL POLYMERS LTD & ANR Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

% **30.10.2018**

1. The order dated 13.09.2018 passed by the Court of Ld. Additional District Judge-06, South East, Saket Court, New Delhi is the subject matter of challenge in this petition filed under Article 227 of the Constitution of India by the petitioner/defendant No.2. The respondent No.1/plaintiff has filed a suit for mandatory injunction and damages against the respondent No.2/defendant No.1 and the petitioner/defendant No.2 on the ground that he has not been supplied with Form 21 and 22 with regard to the 'Skoda Superb' car which he has purchased from them.

2. It is submitted by learned counsel for the petitioner that there was no privity of contract between the petitioner/defendant No.2 and the respondent No.1/plaintiff. While dismissing the application of the petitioner/defendant No.2 under Order I Rule 10 CPC and Order VII Rule 11 CPC for deletion of its name from memo of parties, the Trial Court observed as under:-

“There is an application u/o 1 R 10 CPC also filed by applicant/defendant No.2 seeking deletion from array of parties on the ground of there being no contractual relation between plaintiff and defendant No.2. It is also on the same ground that the application u/o 7 R 11 CPC

has been filed. Counsel for the plaintiff has taken me through various paras of plaint wherein reference to the dealing, interaction and payment by plaintiff to defendant No.1 is made. Raising of the invoice by the defendant No.2, delivery of car by defendant No.2, invoices being in the name of plaintiff are specifically made out from plaint and documents filed with the plaint. These details are sufficient to make out a case from the plaint against defendant No.2 also. The contention regarding privity of contract and there being no contractual relation between plaintiff and defendant No.2 and raising of the invoices in the name of plaintiff at the request of defendant No.1 under some circumstances and understanding will be a matter of trial. Both the applications are devoid of any merit and are dismissed.”

2. It is a well settled principle of law that the contents of the plaint are to be examined and perused for the purpose as to whether the plaintiff has any cause of action against the defendant. While dismissing the applications, the Trial Court found that the respondent No.1/plaintiff has alleged that the defendants from whom he has purchased the Skoda Superb car, have not supplied him with Forms 21 and 22 in respect of the said car as required by the Motor Vehicle Rules.

3. In the circumstances, it is clear that the plaintiff/respondent No.2 has cause of action against the petitioner/defendant No.2. I do not find any illegality or infirmity in the impugned order dated 13.09.2018. The petition, along with CM APPL. 44658/2018 seeking stay of the impugned order, is dismissed.

VINOD GOEL, J.

OCTOBER 30, 2018
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