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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on :- 23rd February, 2018

+ CM(M) 207/2018 & CM 6668/2018

M/S FLINT GROUP INDIA PRIVATE LIMITED..... Petitioner

Through: Mr. Anand Mishra, Advocate.

Versus

M/S JAGRAN PRAKASHAN LIMITED Respondent

Through: None.

AND

+ CM(M) 208/2018 & CMs 6669-6670/2018

FLINT GROUP INDIA PRIVATE LIMITED..... Petitioner

Through: Mr. Anand Mishra, Advocate.

versus

JAGRAN PRAKASHAN LIMITED Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. Both these petitions arise out of orders dated 25.05.2017 and 03.11.2017 passed by the additional district judge on the file of summary suit (CIS No.209714/2016) instituted by the petitioner against the respondent (defendant) on 08.02.2016 for recovery of Rs.23,88,679/- invoking the procedure set out in Order XXXVII of the Code of Civil Procedure, 1908 (CPC).

2. It appears that by the order dated 25.05.2017, the additional district judge taking note of the application under Order V Rule 20 CPC moved by the petitioner (plaintiff) on 04.03.2017, directed that the summary suit be treated as ordinary suit and when the petitioner took exception by moving an application for review, the same was declined by order dated 03.11.2017, primarily on the basis of comparison of the prescribed forms for service of summons under Order XXXVII CPC and for publication under Order V Rule 20 CPC.

3. At the hearing, the learned counsel for the petitioner submits that repeated processes issued under Order XXXVII CPC have been evaded successfully by the respondent/defendant. He submitted that the application under Order V Rule 20 CPC was filed under some misconception and wrong advice, it being wholly unnecessary inasmuch as there was already a report of refusal on the part of the defendant to receive the summons and its consequent service by affixation as noted in the proceedings recorded on 29.11.2016. At the same time, he submits that the view taken by the additional district judge is not correct in view of the rulings of Single Judges of this Court in *U.K. Paints (India) Ltd. v. Surlux Medi Equip Ltd. & Anr.*, 2001 (60) DRJ 472 and *Ashish Goel and Ors. v. Prem Chand Gupta and Anr.*, CM(Main) No. 1351/2008, decided on 08.04.2010.

4. Since the respondent has not yet been served, issuance of a notice to him would be unnecessary.

5. In the given facts and circumstances, it appears that the order on the review application dated 03.11.2017 has been passed by the

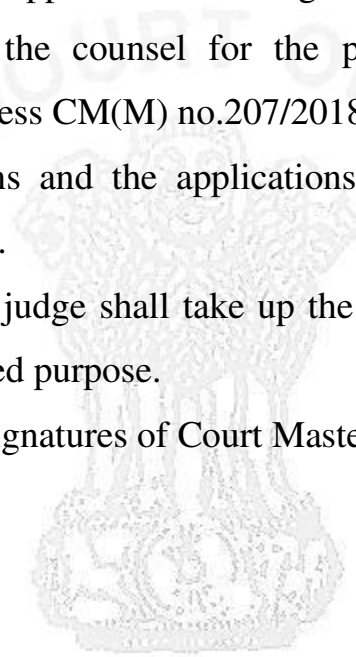
additional district judge without taking into consideration the reports on the previous processes, particularly the one noted in the proceedings dated 29.11.2016 and also not taking into account the rulings in *U.K. Paints (India) Ltd.* (supra) and *Ashish Goel* (supra). Thus the order dated 03.11.2017, which is challenged by CM(M) no. 208/2018 is set aside. The learned additional district judge is directed to reconsider the review application in the light of the law relied upon.

6. In above view, the counsel for the petitioner submits that presently he does not press CM(M) no.207/2018.

7. Both the petitions and the applications filed therewith stand disposed of accordingly.

8. The learned trial judge shall take up the matter on 15th March, 2018 for abovementioned purpose.

9. *Dasti* under the signatures of Court Master.



R.K.GAUBA, J.

FEBRUARY 23, 2018

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