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

% ***Date of Decision:* 10.01.2019**

+ CS(OS) 615/2017

M/S N.R.N AGRO FOODS PVT. LTD. Plaintiff
Through Mr.Abhishek Paruthi, Adv.

versus

SHRI SANJEEV BHARDWAJ Defendant
Through None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (ORAL)

1. This is a suit for recovery of a sum of Rs.2,15,60,000/- (Rupees Two Crores Fifteen Lakhs Sixty Thousand) from the defendant with pendent lite and future interest @ 18% per annum. Other connected reliefs are also sought.
2. Notice of the suit was issued to the defendant. Learned Counsel for the defendant entered appearance but no written statement was filed despite being given sufficient amount of time. Hence, the defendant has been proceeded *ex-parte* by virtue of the order of this court dated 26.07.2018.
3. Essentially, the case of the plaintiff is that the defendant approached the plaintiff for sale of a rice mill at village Daun Kala, District Patiala, Punjab (*herein referred to as the "said property"*). It is stated in the plaint that the said property was owned by the defendant. As the plaintiff became interested in buying the said property it was revealed by the defendant that

the original title documents of the said property was mortgaged to the bank against a loan of Rs.2 crores to the defendant.

4. It is further stated that the defendant assured the plaintiff that on repayment the loan amount by the plaintiff the defendant shall execute and register the sale of the said property in favour of the plaintiff.

5. The plaintiff transferred the amount of Rs.1,78,50,000/- in the account of the defendant through RTGS during the period of March, 2014 to September, 2014. Thereafter, the defendant utilised the said amount paid by the plaintiff in releasing the title deed of the said property from the bank.

6. It is pleaded in the plaint that after getting the title deed of the said property released the defendant showed his dishonesty and sold the said property to some third person.

7. It is further pleaded in the plaint that due to limitation the plaintiff can only recover an amount Rs.1,40,00,000 (i.e. paid on 17.09.2014 and 20.09.2014) out of Rs.1,78,50,000/- paid to the defendant.

8. Hence, this present suit is filed for recovery of Rs.2,15,60,000/- (Rs.1,40,00,000/- towards principle amount + Rs.75,60,000/- towards interest @ 18% per annum).

9. I have heard the learned counsel for the plaintiff and have examined the contents of the plaint, the documents placed on record.

10. The plaintiff has led its *ex parte* evidence of Mr.Akhilesh Kumar, Deputy Manager, Kotak Mahindra Bank, Nava Bazar Branch, Chandani Chowk, Delhi as PW1, Mr.Ramesh Bandhu, Manager, Punjab & Sindh Bank, The Mall Branch, Patiala, Punjab as PW2 and affidavit by way of evidence of Mr.Rajeev Bansal, Managing Director of the Plaintiff as PW 3.

Exhibits PW 1/1 to PW1/2, PW 2/1 to PW 2/3 and PW 3/1 have also been exhibited.

11. In his *ex parte* evidence Mr.Akhilesh Kumar PW1 states that he has brought records pertaining to the statement of account the plaintiff along with certificates under Banker's Book Evidence Act. A perusal of the statement of account of the plaintiff shows that Rs.40,00,000/- and Rs.1,00,00,000/- has been transferred to the account of the defendant on 17.09.2014 and 20.09.2014 respectively. The statement of account reflecting such entries is marked and exhibited as Ex. PW 1/1. Evidence of Mr.Ramesh Bandhu PW2 states that he has brought records pertaining to the statement of account the defendant with RTGS statement. A perusal of the statement of account of the defendant shows that Rs.40,00,000/- and Rs.1,00,00,000/- has been received in the account of the defendant from the plaintiff on 17.09.2014 and 20.09.2014 respectively. The statement of account reflecting such entries is marked and exhibited as Ex. PW 2/1. RTGS statement is marked and exhibited as Ex. PW 2/3.

12. A perusal of evidence by way of affidavit of Mr.Rajiv Bansal, Managing Director/AR of the Plaintiff, PW3 shows that he has narrated the background facts of the case as stated in the plaint and has affirmed it to be true and correct. In his evidence he has also stated that he is appointed as an authorized representative of the company vide Board resolution of the plaintiff, the same is marked and exhibited as Ex. PW3/1.

13. A perusal of the pleadings and the evidence on record makes it clear that the plaintiff has paid the amount of Rs.1,40,00,000/- to the defendant through RTGS and the defendant has neither executed the sale deed of the

rice mill in favour of the plaintiff nor paid back the consideration amount received to the plaintiff.

14. In view of the above facts, a decree is passed in favour of the plaintiff and against the defendant for a sum of Rs.2,15,60,000/- (i.e. Rs.1,40,00,000/- towards principle amount + Rs.75,60,000/- towards interest @ 18% per annum). The plaintiff shall be entitled to *pendente lite* simple interest @ 12% per annum from the date of filing of the suit till the decree. The plaintiff shall also be entitled to simple interest from the date of the decree till recovery. The plaintiff shall also be entitled to cost.

15. The suit is accordingly disposed of and all pending applications, if any, stand disposed of.

JANUARY 10, 2019/ss

JAYANT NATH, J.