

COMMERCIAL SUMMARY SUTT NO.1124 OF 2018

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SUMMONS FOR JUDGMENT NO.119 OF 2018

VS.

Mr.Rahul Chaubey i/b. Mr.S.M.Jain for the Plaintiff.

CORAM : A. K. MENON, J.

DATED : 2nd MARCH, 2022.

P.C. :

1. By this Summons for Judgment, the plaintiff seeks a decree in a sum of Rs.3,84,84,485/-, as set out in the plaint and in the particulars of the claim. The suit is based on invoices and a written confirmation of the balance sum due and payable by the defendant to the plaintiff. The defendant is a proprietary concern.

2. It is the plaintiff's case that the plaintiff sold and delivered to defendant gold ornaments of diverse quantities under two invoices bearing

Nos.108 dated 6th August, 2015 and 134 dated 17th August, 2015. The value of the goods is as appearing on the two invoices. According to the plaintiff, after having taken delivery of the gold ornaments, the plaintiff has issued two bills totalling to Rs.5,73,31,479/-. The defendant agreed to make payments within 7 days, failing which interest was liable to be paid @ 24% p.a..

3. It is not in dispute that there is no agreement in writing to pay interest. However, so far as the principal sum is concerned, the plaintiff has admitted having received several part payments, as set out in paragraph No.5 of the plaint, thus, leaving a balance of Rs.3,05,53,513/-, which amount the defendant seems to have confirmed in writing in a letter of confirmation of account dated 24th March 2016. The balance amount confirmed as on 24th March, 2016. The letter of confirmation of account is annexed at Ex. B to the plaint. The ledger extract of the plaintiff in the books of the defendant for the relevant period shows balance of Rs.3,05,53,513/-, as aforesaid. The plaintiff has thereafter demanded the balance sum due i.e. Rs.3,60,04,013/- alongwith interest, as aforesaid. Certain part payments have been made to the extent of leaving the balance sum. The plaintiff therefore, seeks a decree in the aforesaid terms.

4. The defendant is absent on call. Defendant's Advocate has entered appearance. The learned counsel for the plaintiff states that the Summons for Judgment was duly served on the defendant's Advocate. He has produced in court today an acknowledgment of the Advocate for the defendant to prove service of Summons for Judgment upon him. Learned Advocate for the plaintiff submits that affidavit of service will be filed on or before 5th March, 2022. Statement is accepted.

5. There is no reply to the Summons for Judgment. There is no defence at all so far as the principal sum is concerned. The principal sum is admitted to the tune of Rs.3,05,53,513.00 and, in my view, the plaintiff is entitled to a decree in the said sum. Learned Advocate for the plaintiff today tendered in court compilation of the original Invoice Nos.108 and 134 dated 6th August, 2015 and 17th August, 2015 respectively, as also the original letter of confirmation of balance dated 24th March, 2016 with the extract of the ledger, which is said to be duly signed by the defendant. He has also tendered copy of the original notices dated 14th May, 2016 and 16th January, 2018. In view of the same, I pass the following order.

ORDER

- i. There will be a decree in the sum of Rs.3,05,53,513/-
alongwith the interest thereon @ 6% p.a. against the

defendant.

- ii. Affidavit-of-service to be filed on or before 5th March, 2022, without fail.
- lii. Order to be uploaded after affidavit-of-service is filed.
- iv. Suit is disposed in the above terms.
- v. Summons for Judgment is also disposed.
- vi. Refund of court fees, if any, as per rules.

(A.K. MENON, J.)