



\$~56

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

+ **CM(M) 2106/2024**

RAJESH

..... Petitioner

Through: Mr. Anubhav Dadhich and Ms. Aashi
Sharma, Advs.

versus

SUNIL GANGWAL

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **14.03.2024**

CM APPL. 15544/2024

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CM(M) 2106/2024 and CM APPL. 15543/2024—stay, CM APPL. 15545/2024—Exp. From filing TCR

3. The present petition has been filed under Article 227 of the Constitution of India impugning the order dated 06.01.2024 passed by the Learned Additional District Judge-05, South Saket Courts, New Delhi (“Trial Court”) in CS DJ 342/2020 titled as “*Rajesh vs Sunil Gangwal*”, whereby the learned Trial Court dismissed the application filed by the petitioner under Order XII Rule 6. The petitioner herein is the plaintiff before the learned trial court.
4. It is the case of the petitioner that in August, 2017, the respondent



approached him for a loan of Rs. 6.90 lakhs. Due to their cordial relationship, the petitioner granted the loan to the respondent on 01.09.2017. The promissory note stipulated a commitment from the respondent to repay the loaned amount within 8 months.

5. However, upon the expiration of the 8 months, the respondent failed to fulfil its obligation due to his financial constraints. Consequently, the petitioner on 18.09.2020, initiated a summary suit against the respondent under Order XXXVII, seeking recovery of the loan amount of Rs. 6.90 lakhs along with future interest.

6. Subsequently, during the proceedings in the case, statement of the respondent was recorded under Order X read with section 94 and 151 of the Code of Civil Procedure, 1908 (“CPC”) and section 165 of the Indian Evidence Act wherein the respondent, inter alia, acknowledged the signatures on the promissory note (Exhibit P-1) to be his.

7. Thereafter, placing reliance on the aforesaid admissions, the petitioner on 02.03.2023, filed an application under Order XII Rule 6 read with section 151 CPC, seeking judgement on admissions made by the respondent in the recorded statement. Respondent also filed a reply to the aforesaid application.

8. The Learned Trial Court vide the impugned order dated 06.01.2024 dismissed the aforesaid application holding that the respondent through his written statement had admitted only an amount of Rs. 50,000 from the brother of the petitioner and the liability to pay the money to the petitioner remains a disputed question of fact.

9. Aggrieved by the impugned order, the petitioner has preferred the present petition.



10. The learned counsel for the petitioner submits that the respondent has made an unequivocal admission to have taken Rs. 50,000 from the brother of the petitioner and further admitted to the signatures on the promissory note of Rs. 6.90 lakhs, thus, this carries weight in establishing the liability of the respondent.

11. Learned counsel further submits that respondent's earlier admission of his signatures on the promissory note in the statement recorded before the learned Trial Court and later denial of the same in the written statement shows the malafide intention of the respondent which has not been considered by the Learned Trial Court.

12. Reliance has been placed on the judgements **Rajiv Srivastava v. Sanjiv Tuli and Anr.** 119 (205) DLT 202 (DB) and **P.S. Batra v. S. Anoop Singh and Anr.** 2008 SCC OnLine Del 1240.

13. Submission heard, impugned order as well as record perused.

14. It is trite in law that while passing the judgment on admissions under Order XII Rule 6 CPC, the Court is required to note the principle regarding judgment on admission under Order XII Rule 6 CPC.

15. Reading of the impugned order reflects that it has been passed in haste and in a casual manner which apparently is cryptic, abstruse & obscure so much so that even the contentions of the parties made before the learned Trial Court are not reflected in the impugned order. Needless to say the Court while adjudicating an application under Order XII Rule 6 CPC cannot pass a perfunctory order in a superficial manner given the nature of the aforesaid application whereupon the fate of the suit depends on. The learned Trial Court has taken into account the averments made in the written statement but has failed to consider the detailed statement of the petitioner



recorded under Order X CPC before it.

16. In the circumstances hereinabove, the impugned order is set aside. It is remanded back to the learned Trial Court to hear fresh arguments on the application under Order XII Rule 6 CPC and to pass a reasoned order, as per law after considering the entire record. The observations made hereinabove shall not tantamount to expressions on the merits of the case.

17. Accordingly, the petition, along with the pending applications, stands disposed of.

SHALINDER KAUR, J

MARCH 14, 2024
SU