



2024:DHC:5464



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 24th July, 2024

+ CM(M) 3001/2024 & CM APPL. 41382/2024 & CM APPL.
41383/2024

AUTONIX LOGISTICS AND AGRO SOLUTIONS PRIVATE
LIMITED

.....Petitioner

Through: Mr. Hemant Gupta, Advocate.

versus

VIVEK CONTRACTS PVT. LTD.

.....Respondent

Through: Mr. Parvez Bashista, Advocate.

CORAM:**HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

1. Petitioner is defending a suit for recovery filed by the respondent.
2. For the sake of convenience, I would be referring to the parties as per their nomenclature before the learned Trial Court.
3. The plaintiff instituted a suit for recovery. As per the averments made in the plaint, the defendant-Company engaged the plaintiff for construction of a boundary wall and gate at its site at Mothuka Village, Ballabgarh, Faridabad, Near Gali Chaysa, Haryana.
4. The plaintiff executed such work with efficiency and orderliness.
5. Several bills were raised by the plaintiff but since the defendants failed to make the payment, the present suit has been instituted seeking recovery of outstanding amount.
6. The defendant participated in the suit-proceeding and filed a written



statement.

7. After framing of the issues, the plaintiff entered into the witness box and has been examined and cross-examined.

8. It was at that stage that the defendant moved an application under Order XI Rule 1(7)(c) read with Section 151 of CPC seeking leave of the Court to place on record additional document.

9. According to the stand taken by the defendant, the quality of the construction of boundary-wall raised by the plaintiff was substandard and therefore, he had taken the assistance of one accredited lab i.e. Jyoti Test House and as per the test-report given by said lab, it is quite clear that the quality of the construction was poor and substandard and since the aforesaid report is very relevant in context of the present suit, the learned Trial Court should have permitted such report to be placed on record.

10. I have seen the impugned order.

11. Learned Trial Court dismissed the application holding that the defendant had not furnished any 'reasonable cause' for non-filing of such report at the earlier stage.

12. The defendant was, all along, aware of the nature of the suit it was defending and it was always open to him to get the quality of the construction got inspected at the earliest. He could have easily obtained and filed such report along with his written statement.

13. For the reasons best known to the defendant, he got the sample of the construction inspected after the cross-examination of the plaintiff.

14. Even the report, on which the defendant seeks to rely upon, records that the sample was collected on 05.04.2024 and was tested same day and the test report was given on 10.04.2024. This indicates that the report was given



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by the laboratory within five days. That being so, there was no one to prevent the defendant to have contacted any such laboratory and to place the report before the learned Trial Court along with its written statement in order to show that the construction quality was inferior.

15. Moreover, no set off has been sought and there is no counter-claim of any nature, whatsoever.

16. Learned Trial Court was thus fully justified in observing that the Commercial Courts Act, 2015 is a special statute which has been enacted with the objective to expedite the adjudication of commercial disputes and, therefore, the strict provisions and the timelines need to be adhered to and complied with.

17. Be that as it may, the petitioner herein i.e. defendant has not been able to provide any justifiable cause as to why he could not procure the aforesaid report at the earliest available opportunity, particularly, when he knew the nature of the case set up against him by the plaintiff.

18. I, therefore, do not find any merit in the present petition. The same is dismissed.

(MANOJ JAIN)
JUDGE

JULY 24, 2024/sw