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

% ***Date of decision: 24th July, 2024***

+ CM(M) 71/2024 & CM APPL. 1963/2024

M/S OM METALS RATNAKAR PVT LTDPetitioner

Through: Mr. Abdes Chaudhary and Mr. Nishi
Kant Singh, Advocates

versus

NBCC (INDIA) LTDRespondent

Through: Mr. Madan Mishra and Mr. Rajnish
Kumar Jha, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is plaintiff before the learned Trial Court and is aggrieved by order dated 22.03.2023 whereby he has been directed to pay maintenance charges w.e.f. 01.11.2020 onwards as per the terms of agreement dated 07.07.2007. There is also direction to clear such arrears of maintenance within eight weeks.

2. It is important to note that defendants have neither filed any separate suit seeking recovery of any maintenance charges nor they have raised any counter-claim in context of the suit in question and despite that they have been held entitled to get the entire maintenance charges. This, in fact, is suggestive and virtually tantamounts to dismissal of the suit.

3. Petitioner filed a review petition under Order XLVII Rule 1 CPC, which was also dismissed by the learned Trial Court on 21.10.2023 and this



is how the petitioner is before this Court.

4. Plaintiff has filed a suit for declaration and his prime grievance is to the effect that the maintenance being provided by the defendant is not as per the agreement.

5. During course of consideration, learned counsel for petitioner, on instructions, states that a proposal was submitted before the learned Trial Court and he sticks to the same proposal even today and is ready to pay 50% of the maintenance charges to the respondents within three months from today. He states that his such statement is without prejudice to their rights and contentions and since a specific issue has already been framed in the suit before learned Trial Court, it should not be assumed that by making such statement and by making payment of @ 50% of maintenance charges, he is conceding that maintenance was in terms of the agreement.

6. Learned counsel for the respondent states that he would have no objection if the present petition is accordingly disposed of by directing the petitioner to pay the aforesaid amount i.e. 50% of the principal amount towards arrears of maintenance charges.

7. As jointly stated by both the learned counsel, the principal amount till June 2024 computes to Rs. 2,70,23,920/- and the 50% of the said amount, after giving adjustment of the FDR, if any, which has already been deposited before the learned Trial Court, would be in the vicinity of around Rs. 1.30 crores.

8. Let the amount be calculated and be paid to the respondent within



three months from today.

9. Learned counsel for the respondent states that they would explore as to what other legal remedies they have in order to recover the balance maintenance amount. Needless to say, they are always at liberty to avail any legal recourse available to them under law.

10. With the aforesaid observations, present petition is disposed of.

(MANOJ JAIN)
JUDGE

JULY 24, 2024/dr