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

+ C.R.P. 292/2024, CM APPL. 59015/2024

M/S JACK ONE SHANTI ENT

.....Petitioner

Through: Mr. Rajesh Kumar and Mr. Neeraj,
Advocates.

versus

M/S ARORA FABRIC

.....Respondent

Through: Mr. Ankit Shah and Mr. Tarun Arora,
Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **07.10.2024**

CM APPL. 59016/2024 (Seeking Exemption)

1. Allowed, subject to just exceptions.
2. The application is accordingly disposed of.

C.R.P. 292/2024

3. A Civil Revision Petition under Section 115 CPC has been filed on behalf of the Revisionist/Defendant to seek modification of the directions to the Revisionist/defendant for deposit of Rs.2 lakhs within three weeks from the date of passing of the impugned Order dated 02.09.2024 granting conditional Leave to Defend.

4. Learned counsel on behalf of the Revisionist has submitted that there were three Invoices in dispute; against one Invoice the payment had already



been made. In so far as the other two Invoices are concerned, their genuineness has been disputed by the petitioner/defendant. Furthermore, the plaintiff/respondent had relied upon a Cheque of 2016 pertaining to an account which had been closed by the Revisionist in October, 2017. It had been given pursuant to other transactions inter-se the parties and had no concern with the dispute raised in the present case. The said account had been closed on account of the introduction of GST and the Revisionist thereafter, has been dealing and making payments to the respondent/plaintiff through another Account.

5. Moreover, this alleged Cheque had been issued as a security Cheque. It is also claimed that the suit is barred by limitation.

6. The learned counsel for the Revisionist has argued that imposition of such onerous condition of deposit of Rs.2 lakhs makes the right of the defendant/Revisionist to participate in the litigation almost impossible. He is not in a position to deposit Rs.2 lakhs and if not deposited, his right to defend the suit would be rendered nugatory. It is, therefore, submitted that the condition of deposit of Rs.2 lakhs may be waived.

7. Learned counsel on behalf of respondent/plaintiff has submitted that the documents including the Ledger Account relied upon by the Revisionist are false and frivolous and the condition of deposit has been rightly imposed upon the defendant.

8. **Submissions heard.**

9. The learned Trial Court after taking into consideration all the documents and the contentions of both the parties, had concluded that the defendant had substantial defence, but it also observed that at the same time, it also cannot be said that the defence is frivolous or vexatious and some



issues may require evidence. Hence, it was concluded that it is a fit case to grant leave conditionally to the defendants as there remains a reasonable doubt about the probability of the defence and higher conditions are required to be imposed upon the defendants.

10. The learned District Judge (Commercial) while on one hand has observed that there are substantial defences raised by the defendant, then it could not be said that the defences so raised are frivolous and vexatious and require evidence. Conditional Leave to Defend has been allowed subject to deposit of Rs.2 lakhs.

11. Learned District Judge has himself observed that substantial defences have been raised by the defendant which require evidence. In the circumstances, considering the financial capacity of the defendant/revisionist the amount is reduced to Rs.50,000/- to be deposited within four weeks from today.

12. The Revision Petition is accordingly disposed of along with the pending application.

NEENA BANSAL KRISHNA, J

OCTOBER 7, 2024/va