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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of Decision: 14th October, 2024**

+ CM(M) 3602/2024 & CM APPL. 60201/2024 & CM APPL.
60202/2024 & CM APPL. 60203/2024 & CM APPL. 60204/2024

M/S SAVITA OIL TECHNOLOGIES LIMITED

.....Petitioner

Through: Ms. Surekha Raman with Mr. Amarjit
Singh Bedi, Advocates.

versus

M/S NORTH EASTERN CARRYING CORPORATION LIMITED

.....Respondent

Through: Ms. Kirti Mewar with Ms. Eesha
Shonak, Advocates.

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

1. Petitioner is defending a commercial suit whereby the respondent seeks recovery of Rs. 3,43,245/- along with *pendente lite* interest.
2. The suit is resisted by the defendant and in their written statement, they have also, *inter alia*, raised objections with respect to territorial jurisdiction and limitation.
3. However, when the learned Trial Court took up the matter on 15.05.2024, it heard briefly on the point of limitation and after perusal of pleadings and documents, came to conclusion that the suit was well within the limitation.
4. As regards jurisdiction, it claimed that such plea was not agitated by the



defendant when there was exchange of communication between the parties and, therefore, such plea stood waived by deeming fiction.

5. Feeling aggrieved, the present petition has been filed.

6. Learned counsel for the respondent/plaintiff appears on advance notice.

7. Since the above order is dated 15.05.2024, ideally speaking, the petitioner should have approached the Court without any delay, fact remains that there are, in fact, specific averments made with respect to the jurisdictional aspect as well as with respect to the limitation aspect in the written statement itself and, therefore, instead of hastily deciding both these vital issues in summary manner, the defendant should have been given a chance to prove the same during the course of the Trial.

8. During course of the arguments, learned counsel for petitioner stated that he has no intention to delay the suit filed by his adversary and does not even seek any piece-meal trial and, therefore, he would have no objection if both the issues are framed by the learned Trial Court and, thereafter, the case is put to trial.

9. Needless to say, there two issues are crunch issues which go to the root of the matter and, therefore, there was no reason to have not framed those.

10. After hearing learned counsel for both the parties and also keeping in mind the specific averments appearing in the plaint as well as in the written statement, the petition is allowed with direction to the learned Trial Court to frame the above said two issues and, thereafter, to fix up the case for trial.

11. Keeping in mind the nature of dispute and the amount involved, though, the mediation had, initially, failed, it is expected that learned counsel for both the parties would try to explore the possibility of amicable settlement, at least, at their own level and would, accordingly, inform the



learned Trial Court about the outcome thereof.

12. The petition stands disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

OCTOBER 14, 2024/sw