



2025:DHC:311-DB



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

Date of decision: 21.01.2025

+ **RFA(COMM) 46/2025**
METOMATIC INDUSTRIES PVT.LTDAppellant
Through: Dr.Amit George, Mr.Nitesh Mehra, Ms.Hitankshi Mehra, Ms.Ananya Sikri, Mr.Dushyant Kishan Kaul, Advs.

versus

PRV ALLOYS LLPRespondent
Through: Nemo

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

CM APPL. 3825/2025 (Exemption)

1. Allowed, subject to all just exceptions.

RFA (COMM) NO. 46/2025 and CM APPL. 3824/2025

2. This appeal has been filed by the appellant, challenging the Order dated 23.12.2024 passed by the learned District Judge (Commercial Court-01), Shahdara District, Karkardooma Courts, Delhi in CS(COMM) 442/2024, titled ***PRV Alloys LLP v. Metomatic Industries Private Limited***, partially decreeing the suit in favour of the plaintiff/respondent herein for a sum of Rs.12,98,040/-, under Order XII Rule 6 of the Code of Civil Procedure, 1908 (in short,



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‘CPC’).

3. The learned counsel for the appellant submits that the learned Trial Court has failed to appreciate that though the appellant had admitted that it owes a sum of Rs.12,98,040/- to the respondent, at the same time, in the written statement, has taken the plea of lack of jurisdiction of the learned Trial Court. He submits that without considering the said plea, a decree under Order XII Rule 6 of the CPC could not have been passed. He further submits that the penultimate paragraph of the Impugned Order would also shows that the decree has been passed stating it to be without prejudice to the rights and contentions of the defendant and subject to the final disposal/outcome of the suit. He submits that a conditional decree under Order XII Rule 6 of the CPC cannot be passed. He submits that this itself shows that the learned Trial Court has passed the decree without considering the plea of the appellant as to lack of jurisdiction of the learned Trial Court.

4. The learned counsel for the appellant further submits that while the learned counsel for the appellant appearing before the learned Trial Court had stated that the amount of Rs.12,98,040/- is due to the respondent, however, it was also stated that the same was subject to a decision on the territorial jurisdiction of the learned Trial Court. This issue was, therefore, first to be decided by the learned Trial Court.

5. We have considered the submissions made by the learned counsel for the appellant.

6. The Impugned Order makes us to believe that it has been passed



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on the submission made, by the learned counsel for the appellant itself in the course of the hearing. Though the learned counsel for the appellant submits that there was no such admission made and the plea of lack of jurisdiction of the Court was never given up as is evident from the penultimate paragraph of the Impugned Order, we are of the opinion that if that be so, the remedy of the appellant would be to first move to the learned Trial Court in form of a review application.

7. We, therefore, dispose of this appeal by granting liberty to the appellant to file an application seeking review of the Impugned Order dated 23.12.2024, before the learned Trial Court.

8. We make it clear that we have not considered the plea of the appellant on merits, and in case the Order of the learned Trial Court is adverse to the interest of the appellant, it shall be open to the appellant to challenge the Impugned Order, as well as the Order passed on the review application, in accordance with the law.

9. The appeal is disposed of in the above terms.

NAVIN CHAWLA, J

SHALINDER KAUR, J

JANUARY 21, 2025/Arya/IK

Click here to check corrigendum, if any