



\$~45

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA(COMM) 656/2025, CM APPL. 73063/2025 & CM APPL.**
73064/2025

M/S VIJAY ENGINEERING WORKSAPPELLANT

Through: Mr. Manish Batra, Mr. Pawan Kumar
Kashyap, Advocates.

versus

M/S RAJDHANI METAL STORERESPONDENT

Through: Appearance not given.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
20.11.2025

%

1. Admittedly, by the order dated 04.02.2025, appellant's opportunity to furnish admission/denial of documents was closed and the said order was assailed by the appellant by way of Letters Patent Appeal, CM(M) 497/2025, which had been rejected by the Co-ordinate Bench of this Court on 17.03.2025.
2. Consequently, the Trial Court *vide* impugned judgment dated 08.07.2025, had no other option but to decree the suit so filed by the appellant, and the said order is challenged in the present appeal.
3. Learned counsel appearing for the appellant argued that the appellant has substantial grounds for defence, hence, the Trial Court has erred in passing the impugned judgment and decree.



4. Having heard learned counsel for the parties and perusing the order impugned, we find that by virtue of the order dated 04.02.2025, as affirmed *vide* judgment of the Co-ordinate Bench dated 17.03.2025, more particularly, in view of the express provisions contained in Order XIII A of Code of Civil Procedure, 1908, there is no illegality or perversity in the order of the Trial Court and the Trial Court has rightly decreed the suit.

5. For ready reference, operative part of the order dated 04.02.2025 is reproduced herein:

"It appears that defendant had filed the written statement, statement of truth and list of documents, however, affidavit of admission / denial of documents has still not been filed. Now more than 120 days have lapsed from the date of service of defendant.

In this view of the matter, the documents filed by the plaintiff are deemed to be admitted."

6. While affirming the aforesaid order, the Co-ordinate Bench of this Court *vide* order dated 17.03.2025, held that the right of appellant to admit/deny the documents has been closed by observing thus:

"12. The situation is, precisely, the same herein. The defendants were served on 07.09.2024 and though the written statements were filed on 21.09.2024, the affidavits of admission/denial have not been filed despite the expiry of permissible outer limit of 120 days.

13. In view of the above, this Court does not find any merit in the present petitions. There are accordingly dismissed in limine."

7. Since the appellant's right had been closed, hardly anything remained for the Trial Court to do and thus the Trial Court decreed the suit on 08.07.2025, while recording the following:

"13. The defendant does not appear to have any plausible defence to defend this suit. There is no point in going to trial with such a shaky defence, as no useful purpose would be served by allowing the proceedings to meander mindlessly in Court and to clog the justice delivery system. Therefore, in my opinion, present is a fit case where the Summary Judgment in terms of Order XIII-A of the CPC, as applicable to commercial disputes, deserves to be passed in favour of the plaintiff and against the defendant.



Reference in this regard may be made to the judgment in case reported as, "2019 SCC OnLine Del 10764", titled as, "Su-Kam Power Systems Ltd. V/s Kunwer Sachdev", wherein the Hon' ble High Court of Delhi has been pleased to observe as under:

xxxxx

"90. To reiterate, the intent behind incorporating the summary judgment procedure in the Commercial Court Act, 2015 is to ensure disposal of commercial disputes in a time-bound manner. In fact, the applicability of Order XIII A, CPC to commercial disputes, demonstrates that the trial is no longer the default procedure/norm.

91. Rule 3 of Order XIII A, CPC, as applicable to commercial disputes, empowers the Court to grant a summary judgement against the defendant where the Court considers that the defendant has no real prospects of successfully defending the claim and there is no other compelling reason why the claim should not be disposed of before recording of oral evidence. The expression "real" directs the Court to examine whether there is a "realistic" as opposed to "fanciful" prospects of success. This Court is of the view that the expression "no genuine issue requiring a trial" in Ontario Rules of Civil Procedure and "no other compelling reason....for trial" in Commercial Courts Act can be read mutatis mutandis. Consequently, Order XIII A, CPC would be attracted if the Court, while hearing such an application, can make the necessary finding of fact, apply the law to the facts and the same is a proportionate, more expeditious and less expensive means of achieving a fair and just result.

92. Accordingly, unlike ordinary suits, Courts need not hold trial in commercial suits, even if there are disputed questions of fact as held by the Canadian Supreme Court in Robert Hryniak (supra), in the event, the Court comes to the conclusion that the defendant lacks a real prospect of successfully defending the claim."

xxxxx

14. Considering the present case on the touchstone of the law laid down in the above referred judgments, the application filed by plaintiff under Order XIII-A CPC stands allowed. Consequently, the suit is decreed as under:

(i) A decree in the sum of Rs.8,97,811/- (Rupees Eight Lakhs Ninety Seven Thousand Eight Hundred Eleven Only)



alongwith interest @12% per annum w.e.f 31.12.2021 till realization thereof is passed in favour of plaintiff and against the defendant.

(ii) Plaintiff is also held entitled to counsel's fee which is quantified as Rs.22,000/- as also costs.”

8. In our view, since the order of the Trial Court dated 04.02.2025 whereby defendant's right to defend the suit had been closed and the same has been affirmed by the Co-ordinate Bench of this Court, the same has attained finality and the Trial Court's decision to decree the suit *vide* impugned judgment dated 08.07.2025, cannot be faulted with. Order XIII A of the Code of Civil Procedure 1908 which provides for summary judgment in case of commercial dispute clearly provide that if a conditional order is not complied with, the suit shall be decreed. In the instant case, the Trial Court had passed a preemptory order in pursuance whereof the defendant did not file affidavit of admission/denial. The Trial Court thus proceeded to admit the documents filed by the plaintiff. Consequently, the Trial Court was left with no other option but to decree the suit on the basis of the documents filed by the plaintiff.

9. Instant appeal is, therefore, dismissed. No order as to costs.

DINESH MEHTA, J

MINI PUSHKARNA, J

NOVEMBER 20, 2025/ck