

Safina Vs. Rajeev Dutta

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Court : Delhi

Decided On : Jul-31-2014

Judge : G. S. Sistani

Appellant : Safina

Respondent : Rajeev Dutta

Judgement :

\$~21 * IN THE HIGH COURT OF DELHI AT NEW DELHI + CS(OS) 954/2013
SAFINA Plaintiff Through: Mr.Sanjeev Bajaj, Adv. versus RAJEEV DUTTA
Through: Defendant ex-parte Defendant CORAM: HON'BLE MR. JUSTICE
G.S.SISTANI

ORDER

% 31.07.2014 1. Plaintiff has filed the present suit for recovery of Rs.27,29,785/-. Plaintiff is carrying on the business of sale and supply of various kinds of corporate gift items. During the course of business transactions, the defendant approached the plaintiff from time to time for the supply of different type of gift items and accordingly the plaintiff supplied the defendant the requisite goods from time to time and raised bills/invoices against the same. On receipt of the goods and after due satisfaction, the defendant acknowledged those bills/invoices.

2. The summons were issued to the defendant. Despite service defendant did not enter appearance. Defendant was proceeded ex-parte on 10.7.2014. Affidavit by

way of evidence has been field.

3. In this case, PW1/Special Power of Attorney holder of the plaintiff, who is husband of the plaintiff, has deposed that he is conversant with the facts of the case and looks after day-to-day affairs of the plaintiff. During the course of the business, the defendant approached the plaintiff for supply of different types of gift items. The items were supplied at the request of the defendant. The copies of the invoices dated 6.9.2011, 3.9.2011, 5.12.2011, 8.12.2011 (two invoices), 13.12.2011 (two invoices), 28.12.2011 (two invoices), 29.12.2011 (two invoices) and 9.1.2012 collectively exhibited as Ex.PW1/B. Carbon copies of the invoices have been placed on record.

4. It has further been deposed by PW1 that a running account was maintained as per which Rs.27,29,785/- was duly payable. It has also been testified that defendant was called upon on various occasions to clear the outstanding amount but the defendant has failed to clear the same. A legal notice dated 6.2.2013 was served by registered post at residential as well as the factory address of the defendant calling upon the defendant to clear the outstanding amounts. Copy of the legal notice has been exhibited as Ex.PW1/C. Postal receipts have been exhibited as Ex.PW1/B and AD cards exhibited as Ex.PW1/D. Despite the legal notices have been issued the defendant has failed to clear the outstanding.

5. I have heard the counsel for the plaintiff. Perused the affidavit by way of evidence and the supporting documents. CS(OS) 954/2013 copies of the exhibits of the invoices Ex.PW1/B (collectively) show that the goods were supplied by the plaintiff and received by the defendant. As the defendant did not clear the amounts due, the defendant issued a legal notice to the defendant dated 6.2.2013 Ex.PW1/C. Despite service of the legal notice which is evident from the post receipts Ex.PW1/B and the AD cards Ex.PW1/D, the defendant has failed to pay the amount due. The evidence of the plaintiff has remained unchallenged. Consequently, suit is decreed in favour of the plaintiff and against the defendant with pendent lite and future interest @8% p.a. Decree sheet be drawn up accordingly. G.S.SISTANI, J JULY31 2014 ns