

Fortune Builders Pvt Ltd vs Blue Star Ltd on 15 January, 2019

Author: Vinod Goel

Bench: Vinod Goel

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ C.R.P. 7/2019

FORTUNE BUILDERS PVT LTD

Through:

..... Petitioner
Mr. Sanjeev Sindhvani, Sr. Advocate with
Mr. Sanjay Dua, Advocate.

versus

BLUE STAR LTD

Through:

..... Respondent
Mr. Yashvardhan & Ms. Smita Kant,
Advocates.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

% 15.01.2019 C.M. No.1435/2019 (for exemption) Allowed, subject to all just exceptions. The application is disposed of.

C.R.P. No.7/2019 & C.M. No.1434/2019 (for stay)

1. On an advance copy of the revision petition having been served, Mr. Yashvardhan, learned counsel has put in appearance on behalf of the respondent.

2. Issue notice. Mr. Yashvardhan, learned counsel accepts notice on behalf of the respondent.

3. The impugned order dated 19.11.2018 passed by the court of learned Additional District Judge-05, South-East District, Saket Courts, New Delhi ('ADJ'), dismissing the application of the petitioner under Order VII Rule 11 CPC is the subject-matter of challenge in this revision petition.

4. It is submitted by learned senior counsel for the petitioner that last invoice raised by the petitioner is dated 17/21.04.2014 whereas the counter-claim was filed on 15.03.2018. He submits that it is the case of the counter-claimant/respondent that the respondent used to raise bills and the petitioner used to make the payment on bill to bill basis. He contends that Article 14 of the Limitation Act, 1963, would govern the counter-claim for which the limitation is three years from the date of delivery of goods. He contends that the counter-claim is barred by time and the learned ADJ has wrongly placed reliance on the Division Bench judgment of this court in Bharath Skins Corporation vs. Taneja Skins Company Pvt. Ltd.; 186 (2012) DLT 290 wherein the parties were having an open running and non-mutual account.

5. In the circumstances, there shall be stay of the proceedings before the trial court, till the next date of hearing.

6. List on 18th July, 2019.

7. Dasti.

VINOD GOEL, J.

JANUARY 15, 2019 'AA'