

CS NO. 3672/18

Chattar Singh Vs. M/S Ruchi Matta & Co.

12.06.2020

Present: None for plaintiff.

Defendant is exparte vide order dated 15.07.2019

The arguments were heard on 27.02.2020 and it was reserved for judgment on 05.05.2020. On 05.05.2020 the matter was adjourned to 09.06.2020 on account of suspension of work at District Courts pursuant to the directions passed by Hon'ble High Court of Delhi. Thereafter, matter stood adjourned to 25.08.2020.

Pursuant to letter dt. 30.04.2020 issued by the Hon'ble High Court of Delhi and order dt. 03.05.2020 issued by Ld. District & Session Judge (HQ), Tis Hazari, Delhi, the counsel of plaintiff was informed telephonically by the Reader on his mobile number about the preponment and pronouncement of judgment on 12.06.2020.

By separate judgment of even date the suit of the plaintiff stands decreed. Let a decree sheet be prepared accordingly.

File be consigned to Record room after due compliance and necessary actions as per rules.



Announced in the open court

today, i.e. 12.06.2020

(DIVYA GUPTA)

LD. CJ-03 (CENTRAL),THC

12.06.2020

**IN THE COURT OF MS. DIVYA GUPTA,
CIVIL JUDGE-03,
CENTRAL DISTRICT, TIS HAZARI COURT, DELHI.**

New Case No. 3672/18

**SH. CHATTAR SINGH
PROPRIETOR OF:
M/S. CHATTAR SINGH, CONSTRUCTION COMPANY,
OFFICE AT: 3rd FLOOR, D-56, 100 FEET ROAD,
CHATTARPUR ENCLAVE, NEW DELHI-110074.**

..... PLAINTIFF

VERSUS

**1. M/S RUCHI MATTA & CO.
THROUGH ITS PROPRIETOR
OFFICE AT: 2780/B 1, LOTHIAN ROAD,
KASHMERE GATE, DELHI**

ALSO AT

**BL-1, ANAND VIHAR,
JAIL ROAD, DELHI**

**2. VIVEK MATTA,
AUTHORIZED REPRESENTATIVE OF
M/S. RUCHI MATTA & CO.**

**OFFICE AT: 2780/B1, LOTHIAN ROAD,
KASHMERE GATE, DELHI**

ALSO AT

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**BK-1 ANAND VIHAR,
JAIL ROAD, DELHI**

..... DEFENDANTS

Date of Institution of the suit : 11.12.2018
Date of judgment passed : 12.06.2020 ✓

**SUIT FOR RECOVERY OF RS. 53,900/- (RUPEES FIFTY THREE
THOUSAND NINE HUNDRED ONLY)**

JUDGMENT

1. The present suit has been filed by the plaintiff against the defendants for the recovery of Rs. 53,900/-. The suit has been filed by Shri Chattar Singh, who is the sole proprietor of M/S Chattar Singh Construction Company against the defendant company, i.e. Ruchi Matta and Co.

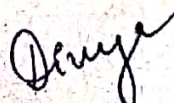
2. Facts of the case in brief are such that plaintiff had approached defendant company (defendant no.1) in May 2018 for hiring a transit mixture of his work through defendant no. 2 namely Sh. Vivek Matta who claimed himself to be the owner/authorized representative of defendant no. 1 i.e. M/s. Ruchi Matta and Company. The defendant no. 2 had sent quotation for the services through email on 18.05.2018 having email id vmrmcc@gmailcom. That on 19.05.2018, after finalization of negotiations the defendant no. 2 insisted plaintiff for making some advance payment. In this regard, a copy of cancelled cheque of defendant no. 1 bearing no. 079062 of Punjab National Bank, Hira Nagar Branch, New Delhi-110058

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was sent through email to the plaintiff. Believing the same, plaintiff transferred the amount of Rs. 53,900/- through NEFT on 19.05.2018 in the bank account of which details were provided by the defendant no. 2. Thereafter, when plaintiff tried to contact defendants for the service defendant no. 2 avoided his calls. On 10.08.2018, when plaintiff approached defendant no. 2 again, defendant no. 2 agreed to refund the money and requested the plaintiff to send someone to receive the amount at the address provided by the defendant i.e. Raj Motors, 1132/18, Lodhian Road, Kashmiri Gate, Delhi. However, address was not correct. Thereafter, plaintiff also issued legal notice to the defendants on 03.10.2018. However, defendants did not reply to the notice of the plaintiff. Hence, the present suit has been filed by the plaintiff against the defendants for the recovery of sum of Rs. 53,900/- along with interest @ 18% p.a. from the date of payment till its actual realization.

3. Notice of the suit was served upon the defendants on 23.02.2019, but despite service, neither the defendants have appeared before the court nor was WS filed on behalf of defendants. Therefore, the defendants were proceeded Ex-parte vide order dt. 15.07.2019 passed by Ld. Predecessor of this court.

4. Matter was then listed for ex-parte evidence. The plaintiff got himself examined as PW-1 on 17.09.2019 by way of an affidavit of evidence which is marked as Ex. PW1/1 wherein he reiterated the contents of the plaint.



The same are not repeated here for the sake of brevity. He also exhibited the following documents: -

- i) Ex. PW-1/A i.e. registration certificate of plaintiff firm.
- ii) Ex. PW-1/B i.e. email conversation and email follow up with the defendants.
- iii) Ex. PW-1/C i.e. email quotation terms and conditions.
- iv) Ex. PW-1/D i.e. copy of canceled cheque of defendant no. 1.
- v) Ex. PW-1/E i.e. copy of bank statement of plaintiff.
- vi) Ex. PW-1/F i.e. certificate u/s 65-B Indian Evidence Act.
- vii) Ex. PW-1/G i.e. legal notice dt. 03.10.2018.
- viii) Ex. PW1/H i.e. postal receipts.
- ix) Ex. PW1/I i.e. tracking report of postal receipt.

Thereafter, vide his separately recorded statement, Ex-parte PE was closed. The matter was then listed for Ex-parte final arguments.

5. Ex-parte final arguments advanced by the Ld. Counsel for the plaintiff were heard. Case filed perused.

6. In Ex-parte suits, where defendant has not filed WS or does not appear to contest the suit, the plaintiff as well as the court proceeds on the basis that there was no real opposition/defense to put forth.

7. Perusal of Ex. PW1/B and Ex. PW1/C, which contain the email conversation between the plaintiff co. and the defendant co., shows that defendant no. 2 had expressed his willingness in carrying transaction with

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the plaintiff and he had sent the quotation for the services through email on 18.05.2018 having email id vmrmcc@ gmail.com. He had quoted the terms and conditions of the transaction and plaintiff believing the same agreed for the transaction. It was defendant no. 2 who insisted the plaintiff for making the advance payment for which he sent a copy of cancelled cheque of the defendant no. 1 bearing no. 079662 of Punjab National Bank, Hira Nagar Branch, New Delhi-110058, which is Ex. PW1/D. Perusal of Ex. PW1/D to Ex. PW1/F (colly) shows that plaintiff had transferred the amount of Rs. 53,900/- through NEFT on 19.05.2018 in the bank account of which the details were provided by defendant no. 2. The legal notice dt. 03.10.2018 i.e. Ex. PW1/G is also placed on record which proves that the said demand notice was served upon the defendants calling upon the defendants to pay the above outstanding amount. The service of legal notice stands proved by Ex. PW1/H and Ex. PW1/I. Plaintiff had transferred the amount of Rs. 53900/- to the defendant co. on 19.05.2018. Therefore, the suit of the plaintiff is within limitation. On the other hand, despite the notice of the suit in hand, defendant has not appeared before the Court to either dispute the signatures upon the documents filed by the plaintiff or to dispute the plaintiff's case. As such, the entire evidence led by the plaintiff goes unrebutted and since defendant has chosen to remain absent, therefore, there is no reason for this court to disbelieve plaintiff's version. The plaintiff has claimed interest @ 18% p.a from the date of institution of suit till the realisation of the decretal amount. However, interest @ 18% seems to be exorbitant. Interest @ 12% p.a. from the date of institution of suit

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seems to be sufficient to meet the ends of justice.

RELIEF

8. Hence, in view of the aforesaid discussion, the suit in hand is hereby decreed ex-parte with cost and plaintiff is hereby held entitled to recover an amount of Rs. 53,900/- (Rupees Fifty Three Thousand Nine Hundred Only) along with interest @ 12% p.a. (simple interest) from the date of institution of suit till its final realization, from the defendant and the amount of cost.

Decree sheet be prepared accordingly.

File be consigned to Record Room after due compliance.

Announced in the Open Court
today on 12.06.2020

Divya
(DIVYA GUPTA)
Civil Judge-03/Central
Tis Hazari Courts, Delhi