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

+ RFA 144/2010

KAMAL KISHORE KAPOOR

..... Appellant

Through : Mr. A. Asthana, Adv.

versus

CHANDER PAL SINGH

..... Respondent

Through Mr. G.P. Thareja, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

ORDER

% **10.08.2010**

CM NO.14265/2010 (STAY).

1. This is an application filed by the appellant seeking stay of the impugned judgment and decree dated 25.2.2010.
2. The facts, which have given rise to the filing of the present appeal, are that the plaintiff (respondent herein) had filed a suit for recovery of Rs.5.16 lakhs under the provisions of Order XXXVII CPC. The appellant entered appearance and upon service of summons for judgment an application for leave to defend was filed. After hearing the parties, the trial court granted conditional leave to the appellant herein on his paying to the respondent a sum of Rs.3.00 lakhs within thirty days. The aforesaid order was not complied with, which

Signature Not Verified

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resulted in passing of the final decree, which has been assailed in the present proceedings.

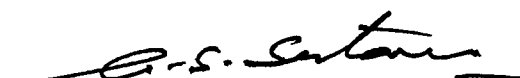
3. Learned counsel for the appellant submits that subject to appellant paying a sum of Rs.3.00 lakhs to the respondent (plaintiff) within a period of six weeks from today, the appellant be granted time to file the written statement and contest the suit on merits. Learned counsel for the respondent has no objection.
4. Learned counsel for the appellant points out that that an execution petition being no.10/2010 has been filed, which is listed on 12.8.2010. Counsel for the appellant submits that in view of the concession given by counsel for the respondent no further orders are required to be passed in the present appeal as well as in CM No.14265/2010. Accordingly, present appeal as well as CM No.14265/2010 are disposed of in the following terms:
 - (i) The appellant shall pay to the respondent (plaintiff) a sum of Rs.3.00 lakhs within six weeks from today;
 - (ii) The appellant shall file written statement within thirty days from today;
 - (iii) The appellant does not press the appeal;

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(iv) The execution petition shall remain stayed for a period of six weeks; and in case the amount of Rs.3.0 lacs is paid to the respondent, the respondent shall withdraw the execution petition.

5. Parties agree that appeal be disposed of in above terms.

6. Dasti.


G.S. SISTANI, J.

August 10, 2010
'msr'

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RFA
Disposed of
10-08-10

⇒ cm. 17300/10 (for
[funder]
time for
payment)