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* IN THE HIGH COURT OF DELHI AT NEW DELHI

FAO (OS) 317/2013
CM APPL.10672/2013

TENDERNEWS.COM THR MR RAKESH KALIA
(SOLE PROPRIETOR)

..... Appellant

Through: Mr. Pradeep Dhingra, Advocate.

versus

3SG ONLINE INC. & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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17.07.2013

CM APPL.10672/2013 (exemption)

Allowed, subject to just exceptions.

FAO (OS) 317/2013

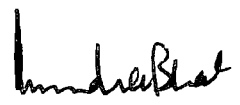
The appellant is aggrieved by an order dated 9.7.2013 by which learned Single Judge issued notices in the suit on various applications including the application for appointment of Local Commissioner - I.A.10603/2013. It is contended that the element of surprise which is so essential in such matters would be completely lost if notices were to be served and a Local Commissioner appointed thereafter. Learned counsel emphasized that the defendants/respondents were former employees of the plaintiff as well as the vendor of its hardware

who are now unauthorizedly using its software and source code. It was submitted that in these circumstances, the *ex parte* order ought to be made. Learned counsel relies upon the decision of this Court in *Autodesk INC. V. A.V.T. Shankardass* AIR 2008 Del 167.

This Court is of the opinion that there is some merit in the appellant's arguments. However, it would not be appropriate for this Court to issue orders sought for especially in view of restricted nature of its appellate power instead it would be appropriate for the appellant to approach the learned Single Judge with a suitable application drawing notice of the Court to the Division Bench's decision in *Autodesk INC* matter (*supra*) which he would doubtless take into consideration while making appropriate orders.

The appeal is disposed of in the above terms.

Order dasti under the signatures of Courtmaster.


S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

JULY 17, 2013

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