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

+ **FAO(OS) 591/2015**

M/S BATRA ART PRESS

..... Appellant

Through : Mr S. K. Sharma with Mr Prayas Aweja

versus

ARRENA OVERSEAS PVT LTD

..... Respondent

Through : Mr Saurabh Bannerjee

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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28.10.2015

CAV 1119/2015

The learned counsel for the respondent/ caveator is present.

The caveat stands discharged.

CM 24460/2015

Allowed subject to all just exceptions.

FAO(OS) 591/2015 & CM 24459/2015

This appeal is directed against the order dated 26.08.2015 passed by a learned Single Judge of this Court in IA 17362/2015 under Order 39 Rules 1 and 2 CPC. The learned Single Judge has passed the order *ex parte*, whereby the appellant has been directed to deposit the 'agreed rent' between the parties with the Registrar General of this Court by way of a bank draft by the next date, which happens to be tomorrow, i.e., 29.10.2015. The appellant has also been directed to continue to deposit the 'same' as damages for the future period. A reference to Order XV-A CPC has also been made by the learned Single Judge implying thereby that in case the appellant does not deposit the said amount, there is a likelihood that his defence would be struck off.

It is the case of the appellant that there is no 'agreed rent' and that there does not subsist any landlord-tenant relationship between the appellant and the respondent. Therefore, there is no question of making any deposit. This is controverted by the learned counsel for the respondent who states that there is a signed lease deed. We are not going into this controversy for the simple reason that the matter is now listed before the learned Single Judge tomorrow. We are, however, making it clear that the direction given to the appellant to make the deposit, as indicated above, would not be operative till further directions by the learned Single Judge. The learned Single Judge shall decide the application, being IA 17362/2015 after considering the reply submitted by the appellant/defendant and after hearing both sides. We are making it clear, once again, that we have not gone into the merits of the matter and it would be open to the learned Single Judge to decide the application according to law and on merits.

This appeal stands disposed of.

Dasti.

BADAR DURREZ AHMED, J

**OCTOBER 28, 2015
SR**

SANJEEV SACHDEVA, J