

\$~2

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

+ **FAO(OS) 703/2015**

**NAROTAM SAYAL**

..... Appellant

Represented by: Ms.Puja Singh, Advocate

versus

**MAYAR INDIA LTD & ORS**

.....Respondents

Represented by: None

**CORAM:**

**HON'BLE MR. JUSTICE PRADEEP NANDRAJOG**

**HON'BLE MS. JUSTICE MUKTA GUPTA**

**ORDER**

% **18.01.2016**

1. The caption of the appeal shows that the challenge is to an order dismissing an application filed by the appellant under Order 9 Rule 13 of the Code of Civil Procedure which appellant claims is dated November 22, 2010.
2. The order dated November 22, 2010 does not deal with an application under Order 9 Rule 13 of the Code of Civil Procedure.
3. The so-called order under Order 9 Rule 13 of the Code of Civil Procedure which has not seen the light of the day in the appeal could inherently not be an order under Order 9 Rule 13 for the reason we find that the appellant is the plaintiff. It is not the case pleaded that the defendants had filed a counter claim and the same was decreed ex-parte.

4. Another problem is that the appeal, which has annexed the impugned order dated November 22, 2010, and lays a challenge thereto has resulted in a large number of objections notified by the Registry. No steps were taken to take back the appeal and re-file the same. Noting that the year 2015 was coming to an end, the Registry listed the appeal for orders before the Division Bench.
5. There is hardly anything worthwhile to consider in the appeal. However, we speak no further for the reason learned counsel for the appellant states that the appellant has instructed that the appeal may be withdrawn.
6. The appeal is accordingly dismissed as withdrawn.

**PRADEEP NANDRAJOG, J.**

**MUKTA GUPTA, J.**

**JANUARY 18, 2016**

rb