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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 3166/1996**
INDBANK MERCHANT BANKING SERVICES LTD..... Plaintiff

Through: None.

Versus

M/S. FOREMOST CERAMICS LTD. AND ANR..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **26.09.2016**

1. This suit was filed for recovery of Rs.8,11,06,963/- jointly and severally from the two defendants viz. M/s Foremost Ceramics Ltd. & Foremost Industries (India) Ltd.
2. The defendants were proceeded *ex parte* in this suit and the plaintiff led *ex parte* evidence and closed its evidence on 15th October, 2009 and the suit posted for hearing arguments.
3. On 15th April, 2010, the counsel for the plaintiff stated that the defendant no.2 was before the Board for Industrial and Financial Reconstruction (BIFR) since the year 1996 and though the plaintiff had filed an application before the BIFR seeking permission to proceed with the present suit, the same had not been decided. In view thereof, the proceedings in the suit were on 15th April, 2010 adjourned *sine die* with liberty to the plaintiff to have the same revived as and when permission to proceed against the defendant no.2 is received from the BIFR.

4. The plaintiff did not apply for revival of this suit and the Registry of its own listed the suit on 7th October, 2015 when the counsel for the plaintiff appeared and sought time to obtain instruction with respect to the status of the proceedings before the BIFR.

5. The counsel for the plaintiff thereafter filed IA No.3642/2016 for discharge stating that notice sent by him to the plaintiff had been returned unserved with the report that the premises were found locked. On the said application of the counsel for the plaintiff, on 18th March, 2016 court notice was ordered to be issued to the plaintiff. The said court notice is reported to be served on 3rd June, 2016 but inspite thereof none appeared for the plaintiff. In the circumstances, vide order dated 1st August, 2016, the counsel for the plaintiff was discharged from appearance.

6. None appears for the plaintiff today also despite Passover. None appeared for the plaintiff earlier on 17th August, 2016 also.

Dismissed in default.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 26, 2016

‘gsr’..