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

+ CS(OS) 2400/1997

M/S. SKN INDUSTRIES LTD. & ANR. Plaintiffs

Through: Mr. Sanjeet Singh, Adv.

Versus

STATE BANK OF BIKANER AND JAIPUR & ORS Defendants

Through: Mr. Jawahar Chawla and Mr. Amit
Sethi, Advs. for D-1.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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02.11.2016

OA No.499/2015 (of D-1 against the order dated 31st October, 2014 of JR) & IAs No.26074/2015 & 26072/2015 (for condonation of delays of 350 days in filing and 51 days in re-filing the appeal)

1. This order is in continuation of the earlier order dated 8th September, 2016.
2. Mr. Sanjeet Singh, Advocate appears for both the plaintiffs and states that he will be filing his *Vakalatnama* and further states that he has not even received the files of the suit from the plaintiffs / earlier counsel and seeks adjournment.
3. As recorded in the order dated 8th September, 2016, the transfer of this suit to the Subordinate Courts in accordance with the Office Order dated 24th November, 2015 of Hon'ble the Chief Justice of this Court in exercise of powers under Section 4 of Delhi High Court (Amendment) Act, 2015 is held up only owing to the pendency of this chamber appeal; for this reason, adjournment sought cannot be granted.

4. I have heard the counsel for the appellant / defendant No.1.
5. For reasons stated, the delays of 350 days in filing and 51 days in re-filing the appeal are condoned and the chamber appeal is allowed on the following conditions:

(I) Subject to payment of costs of Rs.10,000/- to the counsel for the plaintiffs before the affidavit of evidence of the witness of the appellant/defendant No.1 is tendered in evidence, only one witness of the appellant/defendant No.1 whose affidavit by way of examination-in-chief is stated to be already on record as sought, is permitted to be examined;

(II) The said witness of the appellant/defendant No.1 appearing on the date fixed / each and every date fixed for his examination / cross-examination and the counsel for the appellant/defendant No.1 not taking any adjournment.

6. The chamber appeal and the applications are accordingly disposed of.

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7. The suit is for recovery of Rs.24,20,000/- with interest.
8. The registered office of the two plaintiffs is at New Delhi South Extension (NDSE) Part I, New Delhi and the branch of the defendant No.1 which is sued is at Naraina Industrial Area, New Delhi. The branch of the defendant No.2 Canara Bank which is sued is at NDSE Part I and the address of the defendants No.3&4 who are informed to be *ex-parte* is of Najafgarh.

9. As far as the defendant No.2 is concerned, evidence of the sole witness of the plaintiffs has been ordered to be not read against the defendant No.2.

10. In these circumstances, it is deemed appropriate to transfer the suit to the district within whose jurisdiction the branch of the defendant No.1 at Naraina Industrial Area is stated to be situated and which is informed to be District (New Delhi), Patiala House Courts, New Delhi.

11. Accordingly, the suit is transferred to District (New Delhi), Patiala House Courts, New Delhi.

12. The parties to appear before the Additional District Judge / District Judge, District (New Delhi), Patiala House Courts, New Delhi on 5th December, 2016.

13. The learned Additional District Judge / District Judge, District (New Delhi), Patiala House Courts, New Delhi before whom the suit is listed to also consider whether the suit in the light of what is observed hereinabove and in the order dated 8th September, 2016 is to proceed against the defendant no.2 Canara Bank.

RAJIV SAHAI ENDLAW, J.

NOVEMBER 02, 2016

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