

\$~3

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

+ RFA 70/2014 & CMs No.3832/2014 (for stay) & 3833/2014 (for
condonation of 80 days delay in filing the appeal)

SHRI KISHAN GARG Appellant

Through: Mr. Yogesh Rathee, Adv.

Versus

M/S GRG IMPEX PVT. LTD. & ANR Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **19.04.2016**

1. This order is in continuation of the earlier orders dated 3rd February and 29th March, 2016.
2. None appears for the respondents today also.
3. The counsel for the appellant informs that the application for execution of the decree filed by the respondents / plaintiffs / decree holders and which was on 3rd February, 2016 informed to be listed on 1st April, 2016 was in fact listed on 8th April, 2016, when the same has also been dismissed in default of appearance of respondents / plaintiffs / decree holders.
4. The respondents are proceeded against *ex-parte*.
5. The counsel for the appellant has been heard.
6. The counsel for the appellant after some hearing states that the appellant is now willing to comply with the condition imposed by the Trial Court son the appellant, while granting leave to defend, to deposit 50% of the suit amount in the Trial Court.

7. Though the appellant has resultantly delayed the suit by nearly two years but since the respondents / plaintiffs also do not appear to be anxious for expeditious disposal and have not even chosen to appear in this appeal despite service by publication, it is deemed appropriate to grant an opportunity to the appellant to now comply with the order dated 17th July, 2013 of the Trial Court vide which leave to defend was granted to the appellant, subject to deposit of 50% of the suit amount in the Trial Court.

8. Accordingly, subject to the appellant on or before 20th May, 2016 depositing 50% of the suit amount with the Trial Court in terms of the order dated 17th July, 2013 in the suit, the judgment and decree dated 21st August, 2013 of the Court of Additional District Judge (ADJ)-09 (District Central), Tis Hazari Courts, Delhi in Civil Suit No.120/2013 bearing Unique Case I.D. No.02401C0422792013 shall stand set aside and whereupon the appellant/defendant in accordance with the said order be granted leave to defend the suit and the learned Trial Court will proceed with the adjudication of the suit.

9. The Trial Court record requisitioned in this Court be returned forthwith.

10. The appellant to appear before the Court of the ADJ-09 (District Central), Tis Hazari Courts, Delhi and if that Court has been abolished before the Court of the District Judge (District Central), Tis Hazari Courts, Delhi on 13th May, 2016.

No costs. Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

APRIL 19, 2016/‘bs’..

RFA 70/2014

Page 2 of 2