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

\+ CO.APP. 2/2016, CM APPL.5354-5345/2016

TAYAL FINANCIAL SERVICES PVT. LTD. ..... Appellant
Through: Mr. Arun Aggarwal, Advocate.

versus

THREE C HOMES PVT. LTD. ..... Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

O R D E R

% **15.02.2016**

The appellant's grievance is that the observations in the impugned order prejudiced him vis-a-vis the merits of the petition specially his claim for return of the principal amount with appropriate interest given the nature of the delay.

The appeal is directed against an order dated 23.12.2015 whereby the previous interim orders, restraining the respondent's company from transferring its assets etc. in the course of the winding up proceedings were vacated. Learned Single Judge appears to have been influenced by the fact that the company offered to pay the entire principal due and a token amount of Rs. one lac over and above that - which was not acceptable to the appellant.

Mr. Aggarwal, Advocate contends that the decisions of the

Supreme Court as well as the Division Bench of this Court have consistently ruled that in such circumstances, at least, 12% interest ought to be paid and that secondly the observations are culminated in the vacation of the interim order thereby prejudicing the appellant.

This Court is of the opinion that the exercise of discretion by the learned Single Judge in a proceeding which had not led to issuance of a winding up order, were purely discretionary. The interim order does not in any manner indicate or settle the rights of the appellant in such manner as to prejudice him in the course of further proceedings. A

This Court is of the opinion that the appellant is at liberty to urge all contentions available to him in law with respect to the appropriate interest, applicable in such cases.

The appeal is dismissed but with the above observations.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

FEBRUARY 15, 2016
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