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

+ **FAO(OS) 83/2016**

SUBHASH ARORA

..... Appellant

Through : Mr S. K. Bansal with Mr Ajay Amitabh Suman
and Mr Pankaj Kumar

versus

ROHIT BHATIA

..... Respondent

Through : Mr Ashok Mittal with Mr Lalit Vohra

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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16.03.2016

CAV 253/2016

The learned counsel for the respondent/ caveator is present.

The caveat stands discharged.

CM 9436/2016

Allowed subject to all just exceptions.

FAO(OS) 83/2016 & CM 9433-9435/2016

We have heard the learned counsel for the parties. The dispute is with regard to the design of a water jug. Mr Bansal, the learned counsel appearing on behalf of the appellant, states that he has instances of prior publication and prior registered design which he could not place before the learned Single Judge when the matter was heard and the impugned order was passed. We permit Mr Bansal to place these instances before the learned Single Judge along with an application for the same. The matter is remitted to the learned Single Judge who may, after examining the material placed by Mr Bansal on behalf of the defendant/ appellant, vary the order already passed.

The learned counsel for the appellant/defendant would be permitted to take the plea that the features are functional in nature and are not design elements. The learned counsel for the respondent shall be at liberty to controvert the same. This direction is being given because we have not been shown the finding on this aspect of the matter in the impugned judgment.

The application, which is to be filed by Mr Bansal, would be decided in accordance with law on merits. We are making it clear that we have not expressed any opinion on the merits of the matter.

The appeal stands disposed of.

Dasti.

BADAR DURREZ AHMED, J

MARCH 16, 2016
SR

SANJEEV SACHDEVA, J