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

+ **FAO(OS) (COMM) 22/2016**

UNITECH LIMITED

..... Appellant

Represented by: Mr.Abhimanyu Bhandari,
Ms.Aanchal Mullik and
Mr.Sahil Sachdeva, Advocates.

versus

ANSUL KAUL

..... Respondent

Represented by: None.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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25.04.2016

CM No.14630/2016 (Exemption)

Allowed, subject to all just exceptions.

FAO(OS) (COMM) 22/2016

1. Impugned order has been passed by the learned Single Judge on the second date of hearing of O.M.P.(I) (COMM.) No.55/2016 filed by the respondent and listed before the learned Single Judge on February 24, 2016. Notice was issued to the appellant and an affidavit of service was filed before the next date of hearing which was March 16, 2016.
2. On said date none appeared for the appellant and therefore, the learned Single Judge proceeded to pass the order dated March 16, 2016.
3. The position therefore would be that the impugned order has to be

FAO(OS) (COMM) 22/2016

Page 1 of 2

treated in law as an *ex-parte* order. The remedy of the appellant would be to move an application under Order IX Rule 13 of the Code of Civil Procedure or on principles analogous thereto. While moving the applications it would also be open to the appellant to point out to the learned Single Judge that sans any defence of the appellant impugned order could not have been passed with reference to the pleadings in the OMP and the documents relied upon.

4. Declining to entertain the appeal we observe that if an application or applications are filed before the learned Single Judge to recall the impugned order the same shall be decided in accordance with law.

5. No costs.

CM No.14631/2016 (Stay)

Application is dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

APRIL 25, 2016
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