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

+ CO.PET. 384/2011

S.E.L.I. SOCIETA ESECUZIONE LAVORI

IDRAULICI S.P.A.

..... Petitioner

Through: Mr. Jeevesh Nagrath and Mr. Baldev
Kumar Singh, Advocates

versus

SELI INDIA PVT. LTD AND ORS

..... Respondents

Through: Mr. Vinay Sharma, Advocate

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **03.02.2016**

CA 2034/2014 (seeking discharge)

This application is filed by Mr. Jeevesh Nagrath. By this application, Mr. Jeevesh Nagrath seeks discharge from the obligation cast on him to appear for the petitioner. This application is supported by an affidavit of Mr. Jeevesh Nagrath. In sum, the submission of Mr. Jeevesh Nagrath, is that, since, he is not getting any instructions to prosecute the matter, he be discharged from the obligation to appear for the petitioner. Reliance in this behalf is placed on e-mails dated 17.09.2014 and 19.09.2014. The first e-mail dated 17.09.2014 was, evidently, sent by one, Ms. Ayesha Misra. She, I am told, is the solicitor, located in Mumbai, who had been instructing Mr. Jeevesh Nagrath qua the captioned petition. By this e-mail, Ms. Ayesha Misra sought instructions from the principal to prosecute the matter. There

CO.PET. 384/2011

page 1 of 3

was an issue raised in the e-mail with regard to the payment of fee, as well. This e-mail has been replied to by the officers of the petitioner company vide e-mail dated 19.09.2014. They have expressed inability to pay monies towards fee. The said e-mail is also indicative of the fact that the petitioner has no difficulty, if the prosecution of the case is dropped.

It appears that at the hearing held on 23.09.2014, the aforesaid application came up for hearing. Notice was issued to the petitioner by this court. I am informed by Mr. Jeevesh Nagrath that notices have been served on the petitioner. In this behalf, reliance is placed on affidavit dated 19.12.2014. It is noticed that the said affidavit is not on record. I am informed that the affidavit filed showing service on the petitioner is lying under defect. Mr. Jeevesh Nagrath has, however, supplied me a copy of the affidavit.

I am satisfied that the petitioner has been served. The Registry will, however, upload the original affidavit for the purposes of record.

Having regard to the aforesaid circumstances, the application is allowed. Mr. Jeevesh Nagrath is discharged from his obligation to appear for the petitioner.

CO.PET. 384/2011 and CA1879/2011

E-mail dated 19.09.2014 is indicative of the fact that the petitioner is not interested in prosecuting the petition, and also, given the fact that despite notice issued by this court vide order dated 23.09.2014, there is no representation on behalf of the petitioner today, the petition cannot continue unattended.

The petition is, accordingly, dismissed. Interim order dated 13.09.2011 stands vacated. The pending application is also dismissed.

RAJIV SHAKDHER, J

FEBRUARY 03, 2016

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CO.PET. 384/2011

page 3 of 3