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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **FAO(OS) (COMM) 27/2016 & CM No.16967/2016**  
**M/S TECPRO SYSTEMS LIMITED** ..... Appellant  
Through : Mr. Sudhir Nandrajog, Senior  
Advocate with Mr. Ankit Sibbal,  
Advocate.

versus

**M/S GAYATRI PROJECTS LIMITED & ANR** ..... Respondents  
Through : Mr. Arun Kathpalia, Mr. S. Ram  
Babu, Advocates.

**CORAM:**  
**HON'BLE MS. JUSTICE GITA MITTAL**  
**HON'BLE MR. JUSTICE I.S. MEHTA**

**ORDER**

% **09.05.2016**

**CM No.16967/2016(Exemption)**

Exemption allowed subject to all just exceptions.

The application stands allowed.

**FAO(OS) (COMM) 27/2016**

1. The instant appeal assails the order dated 31<sup>st</sup> March, 2016 passed by the learned Single Judge in IA No. 4189/2016 in CS (OS) (Comm.) No. 293/2016. By this order, the learned Single Judge granted an ex-parte ad interim injunction restraining the respondent No. 2 from making any payment to the appellant in compliance of bank guarantees issued by the appellant in favour of the respondent No. 1.

2. The appeal also assails the order dated 27<sup>th</sup> April, 2016, whereby, the appellant's application being IA No. 5121/2016 filed under Order XXXIX

Rule 4 of CPC seeking vacation of interim order has been directed to be listed on 11<sup>th</sup> August, 2016.

3. Mr. Sudhir Nandrajog, learned Senior Counsel appearing for the appellant submits that for the time being, the appellant does not press its challenge to the order dated 31<sup>st</sup> March, 2016 and only seeks the pre-ponement of the date fixed before the learned Single Judge in the IA Nos 5119/2016 and 5121/2016 in CS(COMM) 293/2016, from 11<sup>th</sup> August, 2016 to an earlier date of hearing.

4. Mr. Arun Kathpalia, Advocate, on instruction of Mr. S. Ram Babu, learned counsel for the respondents submits that respondents have no objection to the grant of pre-ponement of the date fixed in IA Nos 5119/2016 and 5121/2016 in CS(COMM) 293/2016 before the learned Single Judge. Inasmuch as, these applications cannot be heard without taking up IA No. 4189/2016, which was filed by the respondents under Order XXXIX Rule 1 & 2 CPC seeking interim injunction, it would be necessary to pre-pone the hearing in IA No. 4189/2016 as well.

5. Accordingly in view of above and with the consent of the parties, it is directed as follows:

- (i) The parties shall file their respective responses to IA Nos. 4189/2016 and 5121/2016, 5119/2016 within a period of five days from today. Such responses shall be filed by the respective parties in the Registry as soon as possible, in any case, three days' prior to the next date of hearing. Rejoinders thereto, if any, be filed before the next date of hearing fixed in these applications.

- (ii) These applications may be listed for directions for fixing an expedited date of hearing thereon before the learned Single Judge on 18<sup>th</sup> May, 2016.
  - (iii) It is made clear that the above order is passed without prejudice to the rights and contentions of all the parties and that there is no expression of opinion by us on the merits of the appeal or the challenge therein.
6. This appeal is dismissed as withdrawn in the above terms.

**GITA MITTAL, J**

**I.S.MEHTA, J**

**MAY 09, 2016**

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