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

+ **FAO(OS) (COMM) 130/2016**

KAUSHALYA DEVI SABU & ORS

..... Appellants

Represented by: Mr.Shailen Bhatia &
Ms.Priyanka Anand,
Advocates.

versus

RAJKUMAR SABU

..... Respondent

Represented by: None.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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25.11.2016

CM No.43707/2016(Exemption)

Allowed subject to just exceptions.

FAO(OS) (COMM) 130/2016 & CM No.43708/2016(Stay)

1. Learned counsel for appellants states that the grievance does not relate to the part of the impugned order wherein a Local Commissioner has been appointed. Indeed such grievance cannot be made against the impugned order for the reasons it records consent for appointment of a Local Commissioner.

2. Learned counsel states that the grievance is that the appellant's application under Order 39 Rule 4 of the Code of Civil Procedure not being considered and the *ex parte* ad-interim injunction is continuing. If this be so, the 91 pages appeal does not justify the span of appeal. Besides, the

prayer is to set aside the impugned order in its entirety and not to the limited extent.

3. Under these circumstances, learned counsel for appellant seeks leave to withdraw the appeal stating that the appellant would confine the appeal limited to the grievance aforesaid. Before the appellants were to file a fresh appeal, counsel's attention is drawn to Section 8 and 16 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.

4. Reserving the right of the appellants to file a fresh appeal leaving the issue of maintainability thereof open, instant appeal is permitted to be withdrawn and the appeal is dismissed as withdrawn.

5. No costs.

PRADEEP NANDRAJOG, J

YOGESH KHANNA, J

NOVEMBER 25, 2016
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