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

+ **RFA(OS) 93/2016**

M/S VARUN FASHION

..... Appellant

Represented by: Mrs.Ekta Sikri and
Mrs.Adveita Sharma, Advs.

versus

ITC LTD

..... Respondent

Represented by: Ms.Pratibha M. Singh, Sr. Adv.
instructed by Mr.Sudeep
Chatterjee and Ms.Nupur
Lamba, Advs.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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08.12.2016

CAV 1045/2016

Learned counsel as above, appears for the respondent/Caveator.

The caveat is discharged.

CM No.45684/2016

Exemption is allowed subject to all just exceptions.

CM No.45683/2016

Since learned counsel for the appellant states that she has been instructed to withdraw the appeal we dispose of the application as infructuous recording that court fee need not be paid since the appeal is being withdrawn without arguments.

RFA(OS) 93/2016

1. The appeal is dismissed as withdrawn noting the consent of parties

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that the right to sue for damages for breach of contract has been already granted to the appellant requiring appellant to file a properly constituted suit. Since after the impugned decree was passed, dismissing the suit, the bank guarantee has been encashed by the respondent, it would be open to the appellant to seek appropriate relief in terms of a money decree qua the bank guarantee.

2. No costs.

CM No.45682/2016

Since the appeal has been dismissed as withdrawn the instant application seeking interim direction is dismissed as infructuous.

PRADEEP NANDRAJOG, J

YOGESH KHANNA, J

DECEMBER 08, 2016
VLD