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

+ **FAO 39/2017**

DAYAL INDUSTRIES PVT LTD Appellant
Through: Mr. Pravin Anand, Ms. Kruttika Vijay
and Mr. Ravin Galgotia, Advocates

versus

GOPIKA INDUSTRIES Respondent
Through: Mr. S.K. Bansal, Mr. Amit Chanchal
Jha and Mr. Pankaj Kumar,
Advocates

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

% **ORDER**
20.01.2017

CAV. 65/2017

Learned counsel for the respondent/caveator is present. The caveat is discharged.

C.M. Appl. Nos.2582/2017 & 2584/2017

Allowed, subject to just exceptions.

FAO 39/2017 & C.M. Appl. 2883/2017

1. Issue notice. Learned counsel for the respondent accepts notice.
2. The appellant has challenged the *ex parte* interim order dated 07th December, 2016.
3. After hearing the parties for some time, this Court is of the view that the *ex parte* order dated 07th December, 2016 was not warranted in this matter and the Court should have issued notice and heard both the parties on the respondent's application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure.

4. In the facts of this case, the appeal is allowed and the *ex parte* interim order dated 07th December, 2016 is set aside. The learned trial Court shall hear both the parties and endeavour to decide the respondent's application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure within a period of one month from the next date of hearing i.e. 25th January, 2017.
5. Learned counsel for the appellant submits that the appellant shall file the written statement as well as reply to the stay application before the learned Trial Court on 25th January, 2017. Let the replication and rejoinder to the application be filed by the respondent before the Trial Court within 10 days thereafter.
6. Nothing stated herein shall be considered as an expression on the merits of the case, which shall be considered by the learned Trial Court.
7. The pending application is disposed of.
8. Copy of this order be given dasti to counsels for the parties under signatures of the Court Master.

J.R. MIDHA, J.

JANUARY 20, 2017
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