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

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Delivered on: 04th September, 2017

+ **CS(OS) 1063/2014, IA No. 14924/2014, 6171/2017**

UMA KHOSLA

..... Plaintiff

Through : Mr.Pawash Piyush and
Mr.Sumeet, Advocates.

versus

VIJAY CHOUDHARY

..... Defendant

Through : Mr.Amit Prakash Shahi, Advocate.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

YOGESH KHANNA, J.

1. Vide order dated 15.02.2017 the defendant was granted conditional leave to defend the suit on his deposit of a sum of ₹3,82,00,000/-, in the Court within a period of one month from 15.02.2017. Out of said amount, ₹1.80Crore was to be released to the plaintiff to satisfy her claim towards principal amount.

2. Defendant carried the above order in appeal bearing FAO (OS) No.154/2017 but it was also dismissed vide order dated 17.05.2017, thus entailing finality to the order dated 15.02.2017 of conditional leave to defend.

3. Learned counsel for defendant submits that the defendant is unable to deposit the said amount. In the circumstances, per sub clause (b) of sub rule (6) of Rule 3 Order 37 of the CPC, the plaintiff is entitled to a judgment forthwith. The said sub rule read as under:-

“(6) At the hearing of such summons for judgment, -

(a) xx xx xx

(b) if the defendant is permitted to defend as to the whole or any part of the claim, the Court or Judge may direct him to give such security and within such time as may be fixed by the Court or Judge and that, on failure to give such security within the time specified by the Court or Judge or to carry out such other directions as may have been given by the Court or Judge, the plaintiff shall be entitled to judgment forthwith.”

4. Thus, in the above circumstances, the suit of the plaintiff is decreed against the defendant for a sum of ₹6,12,75,179/- along with simple interest @ 8% per annum from the date of the filing of the suit till the date of actual payment. Costs of the suit is also awarded to the plaintiff. Decree sheet be drawn up.

5. Pending applications are also disposed of.

YOGESH KHANNA, J

SEPTEMBER 04, 2017

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