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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(COMM) 178/2017 & IA No.15008/2014**  
**M/S TAR ESTATES PVT LTD**

..... Plaintiff

Through : Mr.Chandra Shekhar, Adv.

versus

**KRISHNA SHARMA & ANOTHER**

..... Defendants

Through : None

**CORAM:**

**HON'BLE MR. JUSTICE YOGESH KHANNA**

**ORDER**

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**18.09.2017**

On 11.1.2017 while hearing on application under Order 37 Rule 3 CPC for grant of leave to defend to the defendant, a consent order was passed whereby it was observed that as the plaintiff had received an amount of Rs.1.70 crores but is yet to receive Rs.30 lakhs. The defendant agreed to deposit the balance of Rs.30 lakh in the Court within 45 days of the said order. The plaintiff agreed that on deposit of Rs.30lakh he shall seek to withdraw the present suit. Leave was granted on joint prayer but subject to the deposit of Rs.30 lakh by the defendant to be kept in an interest bearing fixed deposit receipt by the Registrar General initially for six months with provision for auto renewal and to be released in terms of the order dated 11.01.2007. The amount of Rs. 30 lakhs has not been deposited. Hence, in view of the submissions so made and per sub clause (b) of

sub rule (6) of Rule 3 Order 37 CPC the decree shall follow. The said rule read as under :

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

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*(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.”*

In view of the above since the defendant has failed to deposit the amount of Rs.30 lakhs within the time specified by the Court the plaintiff is entitle to a judgment forthwith. The suit is thus decreed in favour of the plaintiff and against the defendant for an amount of Rs.30,00,000/- with interest at the rate of 10% 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.

Pending application is also disposed of.

**YOGESH KHANNA, J**

**SEPTEMBER 18, 2017**

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