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

+ **CS(OS) 265/2010**

DELTA AIR LINES INC & ANR Plaintiff

Represented by: **Mr. Sushant Singh, Adv.**

versus

MD RAFIK AHAMAD & ANR

..... Defendant

Represented by: **None**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **08.08.2017**

IA 5998/2017 (u/O III Rule 4(2) CPC by counsel for plaintiff

By this application learned counsel for the plaintiff seeks discharge from the matter for the reason that despite informing the plaintiffs vide its letter dated 20th April, 2017 besides sending e-mails there is no response from the plaintiffs and the counsel is receiving no instructions.

For the reasons stated in the application the same is allowed.

Mr. Sushant Singh, Advocate and Mr. Manav Kumar, Advocate are discharged from appearing on behalf of the plaintiff.

CS(OS) 265/2010 & IA 1889/2010 (u/O XXXIX Rule 1&2 CPC)

Summons in the suit were issued on 19th February, 2010 and an ex-parte ad-interim order granted in favour of the plaintiff and against

CS(OS) 265/2010

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the defendants. Since the service report was awaited repeatedly fresh summons were issued and finally it was reported on 10th March, 2011 that the summons issued to the defendants had been received back unserved. Fresh address of the defendant was furnished by the plaintiff when finally on 22nd July, 2013 it was informed that besides address of the defendants mentioned on the website, plaintiff was not aware of any other address hence defendants were directed to be served through publication.

Repeatedly steps were not taken for service through publication and finally vide order dated 11th August, 2014 the learned Joint Registrar noted that service to both the defendants had been effected by way of publication in the daily newspaper “the Hindu” published on 4th July, 2014. Since despite service none appeared on behalf of the defendants nor any written statement was filed, one more opportunity was granted. Even on further opportunity when none appeared on behalf of the defendants nor any written statement was filed vide order dated 19th February, 2015, this Court proceeded the defendants ex-parte.

The matter was listed for further directions when on 23rd September, 2015 learned counsel for the plaintiff sought time to file an application seeking amendment of the plaint which was allowed vide order dated 15th February, 2016. Despite opportunities neither the amended plaint nor affidavits of evidence of the plaintiff’s witnesses were filed. Since there was no compliance, finally learned counsel for the plaintiff filed the above-noted IA 5998/2017 under Order XXXIX *CS(OS) 265/2010*

Rule 4 (2) CPC seeking discharge. Despite a letter having been written to the plaintiff on 20th April, 2017 neither an amended plaint has been filed nor affidavits by way of evidence filed by the plaintiff.

Considering the fact that the plaintiff are not prosecuting the suit, despite repeated adjournments, the present suit and application are dismissed for non-prosecution.

MUKTA GUPTA, J.

AUGUST 08, 2017

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