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

+ **FAO (OS) 297/2016, CM APPL.38407/2016**

DAYA KISHAN GOEL Appellant
Through: Mr. Manish K. Jha, Advocate with Mr.
Daya Kishan Goel, appellant in person.

versus

RAMESH CHANDER GOEL Respondent
Through: Mr. P.D. Gupta, Sr. Advocate with Mr.
Abhishek Gupta, Advocate.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE YOGESH KHANNA

% **ORDER**
10.04.2017

The appellant's grievance is that the Joint Registrar in the order dated 04.08.2016 and the learned Single Judge in the order dated 05.10.2016 (in the chamber appeal preferred against the order of the Joint Registrar), erred in directing deletion of parts of the affidavit and more importantly, excluding the same altogether. Learned counsel endeavoured to submit that the defendant/appellant had in the affidavit merely reproduced what he recollected with respect to the financial transactions and the particulars outlined in the tabular statements, reproduced in pages 60-62 of the appeal paper book.

During the proceedings, the deponent/appellant Mr. Daya

Kishan Goel who was present in the Court was asked to state from his recollection the details so produced, he expressed his inability to do so. Clearly, therefore, the statement and the affidavit could not have been taken in the form that was presented.

Ordinarily, in view of the above observations, the appeal would have been rejected, however, counsel for the plaintiff/respondent was agreeable to permit an affidavit by way of last and fair opportunity; it would be placed on the record provided it excluded the controversial portions and was in compliance with the order of the Joint Registrar dated 04.08.2016, but subject to appropriate terms.

In view of the above discussions, the appellant is permitted to file an affidavit in both suits which shall be treated as the only affidavit towards examination in chief provided it strictly complies with the order dated 04.08.2016 within one week, subject to payment of ₹25,000/- to the respondent/plaintiff within the same period.

Appeal stands disposed of in the above terms.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

APRIL 10, 2017
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