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

+ **FAO 301/2017**

JAYSHREE MULCHANDANI

..... Appellant

Through: Mr. Sumit Bansal, Advocate with Mr.
Prateek Kohli, Advocate.

versus

NIRMAL BANG SECURITIES PVT LTD

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **19.07.2017**

C.M. No.25128/2017 (exemption)

1. Exemption allowed subject to just exceptions.

C.M. stands disposed of.

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2. Learned counsel for the appellant argues that the appellant had pressed the argument of Section 65B of the Evidence Act, 1872 before the court below which passed the judgment dated 2.2.2017 but the court below has not dealt with this aspect. In my opinion, such an argument cannot be urged before this Court in view of the judgment of the Supreme Court in the

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case of *State of Maharashtra Vs. Ramdas Srinivas Naik (1982) 2 SCC 463* and which states that judicial record has to be taken as final unless the judicial record which contains a mistake is sought to be got corrected immediately by filing an application before the concerned court. Once no application is filed before the court below that the appellant had urged objection under Section 65B of the Evidence Act, this Court cannot presume that the argument under Section 65B was raised before the court below.

3. At this stage, counsel for the appellant states that appeal be disposed of as not pressed but liberty be granted to the appellant to file a review and/or any other appropriate proceedings before the court below to contend that the impugned judgment dated 2.2.2017 needs to be recalled/reviewed because of same not dealing with Section 65B of the Evidence Act.

4. Appeal is accordingly disposed of with the aforesaid liberty.

VALMIKI J. MEHTA, J

JULY 19, 2017

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