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

+ **FAO(OS) (COMM) 123/2016 & CMs 42895-96/2016**

TECHNO PLASTIC INDUSTRIES INC & ANR Appellants
Through: Mr.Akhil Sibbal, Sr.Adv. with
Mr.Sushant Singh, Ms.Tanvi Mishra
and Mr.Harsh Wardyan Pathak, Advs.

versus

DART INDUSTRIES INC & ANR Respondents
Through: Mr.Hemant Singh, Ms.Mamta Jha and
Ms.Shrutima Ehersa, Advs.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
% **05.07.2017**

There is an issue whether the present appeal is maintainable.

Learned counsel for the respondents has specifically drawn our attention to the paragraph 6 of the impugned order dated 11.11.2016 which states that the present appellants, who are defendants in the suit, are at liberty to make an application for amendment which necessary reflects the real controversy between the parties, but, prolix pleadings as made in the amendment application in question were neither necessary nor warranted. Learned counsel for the respondents states that in view of the said liberty, it is always open to the appellants to file a fresh amendment application.

Learned counsel for the respondents further states that it is open to the appellants to rely upon the decision of Full Bench in ***Mohan Lal v. Sona***

Paints and Hardwares 2013 (55) PTC 61 (Del) (FB) and equally open to the respondents to contest the contention and argue that the ratio would not apply. With regard to the paragraph 3 of the impugned order dated 11.11.2016, learned counsel for the respondents states that these are general observation made in the context of prolix amendment application.

Learned counsel for the appellants, in view of the statement made by the learned counsel for the respondents, wishes to withdraw the present appeal.

The appeal along with pending applications is dismissed as withdrawn with no order as to cost.

SANJIV KHANNA, J

NAVIN CHAWLA, J

JULY 05, 2017/vp