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

+ **FAO(OS) (COMM) 4/2017 and CM APPL. 367/2017 (delay)**

VINEET ADYA

..... Appellant

Through: Mr. Arnav Kumar, Advocate

versus

M/S CARABIAN LEISURE & ENTERTAINMENT PVT & ANR

..... Respondents

Through: Mr. Trideep Pais and Ms. Sanya,
Advocates with R-2 in person for self and as
Director of R-1/company.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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29.05.2017

CM APPL. 21163/2017 (joint application u/O XXIII R 3 CPC)

1. The present joint application has been filed by the parties stating *inter alia* that they have been able to arrive at an out of court negotiated settlement, whereunder the respondents have und ertaken to pay a sum of Rs.25 lakhs to the appellant in ten instalments as detailed in para 3(a) of the application.

2. Counsel for the respondents hands over ten post dated cheques to the appellant towards the ten instalments. The respondent No.2 who is present in person, undertakes on his behalf and on behalf of the respondent No.1/Company that the aforesaid cheques, as and when presented, shall be

duly honoured. Copies of the ten post dated cheques are handed over and taken on record. Respondent No.2 has also given a personal guarantee for the encashment of the said cheques. It has been made clear to the respondent No.2 that in the event any of the post dated cheques are dishonoured or remain unencashed for any reason attributable to the respondents, apart from the right of the appellant to seek revival of the present appeal on merits, the respondent No.2 shall be held personally liable and proceeded against for contempt of court proceedings.

3. It is further stated by the counsels for the parties that besides the sum of Rs.25 lakhs that the respondents have agreed to pay to the appellant, they have also given their consent for the appellant to retain the security deposit of Rs.15 lakhs and in addition, the respondents have agreed to transfer the title of all the goods including the kitchen appliances, furniture, fixtures etc. belonging to them and lying at the premises bearing Unit No.158 and 159, DLF South Court Mall, Saket, New Delhi, to the appellant on an 'as is where is' basis, which the appellant shall be entitled to sell/dispose of and appropriate the sale proceeds towards the balance amount due and payable by the respondents, without fastening any responsibility of them to pay any further amounts to the appellant.

4. We have perused the present application. The same has been signed by the appellant and the respondent No.1 and 2 as also by their respective counsels and is supported the affidavits of the parties. One of the affidavits is that of the respondent No.2 who has given his personal guarantee for encashment of the post dated cheques handed over to the appellant.

5. As counsels for the parties jointly state that the parties have arrived at the aforesaid settlement of their own free will and volition and without any

undue influence or coercion from any quarters, there appears no legal impediment in accepting the said settlement. The parties shall remain bound by the terms and conditions of the settlement as recorded in the present application.

6. In view of the fact that the parties have arrived at a comprehensive settlement in the course of the present appeal not only in respect of the challenge laid to the impugned order dated 16.08.2016, but also in respect of the other reliefs that are pending adjudication before the learned Single Judge, with the consent of the parties, CS(COMM) 151/2016 also stands disposed of. The appellant shall place a copy of this order in the file of the aforesaid suit.

7. Counsel for the respondents states that in the event the appellant files an application in the aforesaid suit for seeking refund of the court fee in accordance with law, he shall not oppose the same.

8. The appeal is disposed of alongwith the pending applications.

HIMA KOHLI, J

SANGITA DHINGRA SEHGAL, J

MAY 29, 2017
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