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

+ **W.P.(C) 11794/2016 & CM 472/2017**

M/S AMIRA PURE FOODS PVT. LTD. Petitioner
Through : Mr. Akhil Sibal with
Mr. Ruchin Midha, Advocates

versus

AXIS BANK LIMITED Respondent
Through : Mr. Arpit Maheshwari, Advocate

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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25.01.2017

CM 3146/2017 (by the petitioner u/Sec.151 CPC for withdrawal of the petition)

1. This application has been filed by the petitioner seeking leave to withdraw the present petition.
2. Mr. Sibal, learned counsel for the petitioner states that on 16.12.2016, when the present petition was listed for admission, counsel for the respondent/Bank had challenged its maintainability and stated that the petitioner is not entitled to invoke judicial review for seeking the reliefs as prayed for.
3. In view of the submissions made by counsel for the respondent/Bank and on perusing the documents handed over by him in the course of arguments, this Court had expressed a *prima facie* opinion that the petitioner had withheld material information. While refraining from passing any order

in this regard on 16.12.2016, it was deemed appropriate to direct the respondent/Bank to file a brief affidavit furnishing all the relevant information with regard to the status of the pledged goods.

4. It is stated by learned counsel for the petitioner that in the meantime, on 12.1.2017, the petitioner has instituted a suit for declaration, permanent injunction and rendition of accounts against the respondent/Bank and the auction purchaser before the Civil Judge (Junior Division), Gurgaon, registered as Civil Suit No.110/2017 and vide order dated 17.1.2017 passed on the stay application accompanying the said suit, interim relief has been granted in favour of the petitioner. A copy of the order dated 17.1.2017 has been handed over by learned counsel which reveals that the petitioner (plaintiff in the suit), the respondent (defendants No.1 in the suit) and the auction purchaser (defendant No.2 in the suit) were duly represented through counsels.

5. Notice. Counsel for the respondent/Bank accepts notice and confirms the fact that his client has received a copy of the plaint filed by the petitioner before the learned Civil Judge (Junior Division), Gurgaon and states that the respondent/Bank is contesting the said suit.

6. Accordingly, the present petition is dismissed as withdrawn, along with the pending applications, with liberty granted to the parties to take all the pleas that may be available to them before the learned Civil Judge, both in law and on facts.

HIMA KOHLI, J

JANUARY 25, 2017

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