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

**+ FAO(OS) 237/2017, CAV.No.760/2017 &**  
**CM Nos.30823-24/2017**

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**Date of decision : 28<sup>th</sup> August, 2017**

M/S AASHIANA ROLLING MILLS LTD ..... Appellant  
Through : Mr. C.M. Lall, Sr. Adv. with  
Mr. Kapil Wadhwa and Ms.  
Devyani Nath, Advs.

versus

M/S KAMDHENU LTD ..... Respondent  
Through : Mr. Akhil Sibal, Sr. Adv. with  
Mr. S.K. Bansal, Mr. Ajay  
Amitabh Suman, Mr. Kapil Giri  
and Mr. Nikhil Chawla, Advs.

**CORAM:**  
**HON'BLE THE ACTING CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE C.HARI SHANKAR**

**JUDGMENT (ORAL)**

**GITA MITTAL, ACTING CHIEF JUSTICE**

**CAV.No.760/2017**

As ld. counsel for the caveator has put in appearance, the caveat stands discharged.

**FAO(OS) 237/2017 and CM Nos.30823-24/2017**

1. The appellant is aggrieved by the order dated 9<sup>th</sup> of August 2017 whereby hearing in an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure filed by the respondent herein in

CS(OS)No.360/2017 has been postponed to 15<sup>th</sup> September, 2017.

2. The primary ground of challenge of the appellant rests on the fact that an *ex-parte* order of injunction dated 15<sup>th</sup> of June 2017 was passed against the appellant by the trial court in the suit, which was then filed before the Additional District Judge, Saket Courts, New Delhi. By this order, the appellant was *inter alia* restrained from using, selling, soliciting, exporting, displaying advertising or by any other mode dealing with the design relied upon by the respondent, which was registered as No.250968 in Class 25-01 in relation to steel bar and related/allied products.

3. Mr. C.M. Lall, Id. Senior Counsel appearing for the appellant submits that the goods i.e. TMT rods, are perishable in nature and given the fact that there is a heavy moisture in atmosphere on account of monsoon, the TMT rods which have been manufactured by the appellant and have been lying ready for sale are rusting which may result in depreciation of their market value and may render them unusable. It is submitted that as a result, the appellant could suffer commercial losses of over a crore of rupees.

4. We are of the view that it would not be appropriate for this court to intervene in the matter at this stage and that the appellant deserves to make a prayer for expedited hearing before the Id. Single Judge, seized of the suit bearing CS(OS)No.360/2017.

5. In view thereof, the suit bearing CS(OS)No.360/2017 be placed before the Id. Single Judge on 29<sup>th</sup> August, 2017 for appropriate orders for expedited hearing on the application for injunction of the respondent. Inasmuch as the respondent is represented before us

today and has been put to notice about the date fixed before the ld. Single Judge, no special notice in this regard is necessary.

6. We are positive that the ld. Single Judge would expedite hearing in the matter.

7. This appeal as well as the applications are disposed of in the above terms.

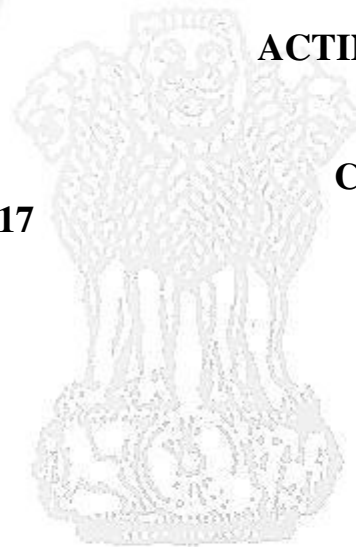
*Dasti* under signatures of the Court Master.

**ACTING CHIEF JUSTICE**

**C.HARI SHANKAR, J**

**AUGUST 28, 2017**

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