

\$~12

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) 33/2018, CM No. 7733/2018**
PRANEET SINGH DAVAR

..... Appellant

Through: Mr. Akshay Makhija, Adv. with
Ms. Kirti Awasthi, Ms. Seevat Deep
Singh & Ms. Mahima Bahl, Advs.

versus

JOSHITA DAVAR KHEMANI & ORS

..... Respondent

Through: Mr. Y.P. Narula, Sr. Adv. with
Mr. Maanav Kumar & Ms. Nupur,
Advs.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
20.11.2018

%

This appeal has been filed calling in question the directions issued by the learned Single Bench on January 30, 2018, which reads as under:-

“Since it is the plaintiff’s own case that the Deed of Retirement dated 14th November, 2014 is null and void, this Court directs the plaintiff to deposit the amount of Rs.11,54,00,000/- received by him under the said Deed within a period of four weeks with the Registry of this Court.

List the matter on 13th March, 2018.”

On the last date of hearing, after hearing the counsel for the parties, we had passed the following order:-

“During the course of hearing of the matter, Mr. Sandeep Sethi, learned Senior Counsel for the appellant, on instructions informed us that the appellant is challenging Deed of Retirement dated 14th November, 2014 on various grounds of fraud and it is categorically stated by him that, even if prayer (i) is allowed, in view of the prayer made for dissolution of the firm, the appellant does not want to go back into the firm as a partner and therefore the amount of Rs.11,54,000/- received by him under the said Deed would remain with him. He also submits that prayer (i) may have to be considered in the backdrop of the aforesaid submission and appropriate relief be granted at the time of hearing. Mr. Narula wants to seek instructions with regard to the same. List on 20th November, 2018. We make it clear that the aforesaid observations made by us, is without prejudice to the rival contentions advanced by both the parties before us.”

The respondents’ counsel today informs us that if the appellant is not willing to deposit the amount of Rs.11,54,00,000/-, (which is incorrectly mentioned as Rs.11,54,000/- in the order passed on November 13, 2018), as he does not want to go back as a Partner in the firm, the stand shall bind him, in future, even in the proceedings from which the impugned order has arisen.

That being so, we take on record the statement made on behalf of the appellant on November 13, 2018, as reproduced above.

In view of the statement, the order passed on January 30, 2018 by the learned Single Bench with regard to deposit of the amount in question, shall

not govern the appellant. The statement of November 13, 2018 shall be binding on the appellant and he shall not withdraw from the same. We make it clear that the order passed and the observations made by us, is without prejudice to the rights of the parties to make their submission before the learned Single Bench.

The appeal and the connected application are disposed of.

CHIEF JUSTICE

V. KAMESWAR RAO, J

NOVEMBER 20, 2018/ak