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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA(OS)(COMM) 7/2018, C.M. APPL.9024-9026/2018**

GODFREY PHILLIPS INDIA LIMITED Appellant
Through : Ms. Anuradha Salhotra and Sh. Sumit
Wadhwa, Advocates.

versus

P T I PRIVATE LIMITED & ORS Respondents
Through : None.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **12.03.2018**

It is submitted that the plaintiff had filed a previous suit – Suit No.1228/2016 against one Pelican Tobacco Company Limited and that suit, which is a subject matter of the present appeal - CS (Comm) 851/2017 [hereafter “the subsequent suit”], was mistakenly filed by its authorized investigator. According to the appellant’s counsel, the subsequent suit was filed under mistaken belief since PTI was in reality “Pelican Tobacco Company Limited”, a fresh cause of action arose which necessitated another suit.

The appellant/plaintiff seems to have urged about the pendency of another proceeding. However, there is no clarity as to the nature of the proceeding and whether it concerned the same party. The appellant asserts that it was under the impression, though mistaken, that PTI and Pelican Tobacco Company Limited were two different entities.

In these circumstances, the Court is of the opinion that the appellant should first approach the learned Single Judge in review proceedings.

Learned counsel for the appellant seeks to withdraw the appeal and approach the learned Single Judge with a review petition.

Liberty granted.

The appeal is accordingly dismissed as withdrawn along with the pending applications.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MARCH 12, 2018/ajk