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

+ CS(OS) 2300/2012

KRF LTD

..... Plaintiff

Through: Mr. Rajeev Sharma and Ms. Shalu
Lal, Advs.

Versus

KOUTONS RETAIL INDIA LTD

..... Defendant

Through: Mr. S. Bhattacharyya, Adv. for Mr.
Kunal Sharma, Adv. for OL.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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12.03.2018

1. The plaintiff has instituted this suit for recovery of Rs.1,68,21,067.65 paise from Koutons Retail India Ltd.
2. The order dated 9th May, 2013 records the statement of the counsel for the defendant Company that vide order dated 10th October, 2012 of this Court in Company Petition No.173/2012, petition for winding up of the defendant Company had been admitted.
3. The order dated 8th July, 2013 records that vide order dated 13th May, 2013, the defendant Company had been ordered to be wound up.
4. The order dated 9th January, 2014 records that Official Liquidator (OL) had already been appointed of the defendant Company. However the subsequent order dated 19th March, 2014 records that a Provisional Liquidator had been appointed.

5. Thereafter, the matter was being adjourned from time to time on account of pendency before the Company Court of the application of the plaintiff under Section 446 of the Companies Act, 1956.
6. The order dated 15th February, 2018 records that the plaintiff's application under Section 446 of the Companies Act had been disposed off with liberty to the plaintiff to prefer a claim before the OL.
7. I have enquired from the counsel for the plaintiff, as to what remains in the suit and whether not the suit has to be disposed off with liberty to the plaintiff to pursue his remedies before the OL and which remedies the counsel for the plaintiff has admitted have already been initiated.
8. The counsel for the plaintiff states that the winding up proceedings have still not been completed.
9. That cannot be a reason for keeping the suit pending, once the defendant Company had been ordered to be wound up and the plaintiff directed to prefer claim before the OL and has to prefer the claim.
10. This suit cannot proceed and is disposed of as aforesaid, leaving the parties to bear their own costs.

RAJIV SAHAI ENDLAW, J.

MARCH 12, 2018

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