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

+ **CS(COMM) 921/2018**

JDM INFRATECH PVT. LTD. Plaintiff
Through: **Mr. Yogesh Kumar, Adv.**

Versus

KOTAK MAHINDRA BANK LTD. & ANR Defendants
Through: **None.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% 30.05.2018

IA No.7693/2018 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

CS(COMM) 921/2018 & IA No.7692/2018 (u/O XXXIX R-1&2 CPC)

3. The plaintiff has instituted this suit for mandatory injunction, directing the defendants Kotak Mahindra Bank Ltd. and its Regional Manager, New Delhi to foreclose the loan of the plaintiff and charge foreclosure charges at the rate of 0.25% on outstanding principal amount and to restrain the defendant Kotak Mahindra Bank Ltd. from charging interest on loan from the month of September, 2017 onwards.
4. The suit has been valued for the purposes of jurisdiction at Rs.9,54,69,627/- and "court fee for the purpose of declaration" of Rs.200/- has been paid thereon and for permanent and mandatory injunction, the suit is valued at Rs.130/-.

5. The Registry of this Court has cleared the suit, without any objection as to court fees and jurisdiction. Needless to state that court fees of only Rs.350/- has been paid on the plaint.
6. I have enquired about the same from the counsel for the plaintiff.
7. The counsel for the plaintiff only states that since he has sued for declaration, therefore he has valued the suit at Rs.200/-.
8. I may mention that as per the prayer paragraph of the plaint, there is no relief of declaration and the suit is only for mandatory and permanent injunction.
9. I have asked the law applied by the counsel for the plaintiff for valuing the suit for the purposes of court fees and jurisdiction.
10. The counsel for the plaintiff is clueless.
11. Per Section 7(iv)(d) of the Court Fees Act, 1870, the valuation of the suit for the relief of injunction has to be according to the amount at which the relief sought is valued in the plaint and the plaintiff in such a suit is required to state in the plaint the amount at which he values the relief sought. Per Section 8 of the Suits Valuation Act, 1887, the valuation for the purposes of jurisdiction, of a suit falling under Section 7(iv)(d) of the Court Fees Act, has to be the same as for the purposes of court fees.
12. The plaintiff, if values the suit for the purposes of jurisdiction at Rs.9,54,69,627/-, has to pay court fees thereon and if wants to value the suit at Rs.200/- and Rs.130/-, has to go to the Court of the appropriate pecuniary jurisdiction i.e. the Court of the Civil Judge, Delhi.

13. Need to give time to the plaintiff to pay court fees on the valuation of Rs.9,54,69,627/- is not felt, since the counsel for the plaintiff has no idea about the legal position.

14. Thus, the plaint is rejected.

15. Registry to be careful in future and ensure that suits, requisite court fees is not paid whereof, are not listed, without recording any objection whatsoever.

RAJIV SAHAI ENDLAW, J.

MAY 30, 2018

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