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

+ RFA 675/2018, CM Nos.33347-348/2018

M/S SOFTLINE CREATIONS PVT LTD & ANR Appellants
Through: Mr. C.S.Parashar, Adv.
(Mobile No.9811026863).

versus

SUBHASH KATHURIA Respondent
Through: None.

+ RFA 676/2018, CM Nos.33351-352/2018

M/S SOFTLINE CREATIONS PVT LTD & ANR Appellants
Through: Mr. C.S.Parashar, Adv.
(Mobile No.9811026863).

versus

SUBHASH KATHURIA Respondent
Through: None.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **03.12.2018**

1. In these appeals a limited notice was issued with respect to high rate of interest @ 24% per annum granted by the Trial Court. The order dated 20.08.2018 passed by this Court reads as under:

“C.M. No.33349/2018(exemption)

1. *Exemption allowed subject to just exceptions.
C.M. stands disposed of.*

C.M. No.33350/2018 (for condonation of delay in re-filing)

2. For the reasons stated in the application, delay of 57 days in re-filing the appeal is condoned.

C.M. stands disposed of.

+RFA No.675/2018 and C.M. Nos.33347/2018(stay) & 33348/2018 (for condonation of delay in filing)

3. This appeal is filed on the limited aspect of questioning the high rate of interest awarded by the impugned judgment.

4. Notice be issued to the respondent, on filing of process fee, both in the ordinary method as well as by registered post AD, returnable on 3rd December, 2018.

5. Subject to the appellants depositing the decretal amount in this Court within a period of two weeks, there shall be stay of operation of the impugned judgment dated 1.12.2017 passed by the court of Sh. Chandra Bose, ADJ-14, Central, Tis Hazari Courts, Delhi in CS DJ No.117/2017 titled as **Sh. Shubhash Kathuria Vs. M/s Softline Creations Pvt. Ltd & Anr.**”

2. No one appears for the respondent in spite of the fact that the respondent is served and the matter was passed over once to await the respondent but no one was present even on the second call.

3. Learned counsel for the appellants placed reliance upon the judgments of the Supreme Court that in view of the fall in the rate of interest regime, the Courts should not grant high rate of interest. These judgments read as under:

“Rajendra Construction Co. v. Maharashtra Housing & Area Development Authority and others, 2005 (6) SCC 678; McDermott International Inc. v. Burn Standard Co. Ltd. and

others, 2006 (11) SCC 181; Rajasthan State Road Transport Corporation v. Indag Rubber Ltd., (2006) 7 SCC 700; Krishna Bhagya Jala Nigam Ltd. v. G.Harischandra, 2007 (2) SCC 720 & State of Rajasthan Vs. Ferro Concrete Construction Pvt. Ltd (2009) 3 Arb. LR 140 (SC).”

4. In view of the ratio of the judgments laid down by the Supreme Court in the aforesaid cases, the high rate of interest of 24% per annum granted by the Trial Court cannot be sustained and, therefore, the rate of interest granted by the Trial Court at 24% per annum is reduced to 12% per annum. Rest of the impugned judgment and decree will remain as it is.

5. The appeals are accordingly allowed and disposed of in terms of the aforesaid order.

VALMIKI J. MEHTA, J

DECEMBER 03, 2018

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