

14 to 17

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 08.02.2018

14

+ **FAO(OS) 210/2016**

Y N BHARGAVA

..... Appellant

versus

ASSOCHAM

..... Respondent

15

+ **FAO(OS) 211/2016**

Y N BHARGAVA

..... Appellant

versus

ASSOCHAM

..... Respondent

16

+ **FAO(OS) 214/2016**

Y N BHARGAVA

..... Appellant

versus

ASSOCHAM

..... Respondent

17

+ **FAO(OS) 215/2016**

Y N BHARGAVA

..... Appellant

Versus

ASSOCHAM

..... Respondent

Advocates who appeared in this case:

For the Appellant : Mr. N.S. Vasisht, Advocate with Mr. Vishal Singh and Ms. Jyoti Kataria, Advocates

For the Respondent : Mr. Ravi Gupta, Sr. Advocate with Ms. Aswathy Menon and Mr. Sachin Jain, Advocates

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE DEEPA SHARMA

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

1. The present appeals assail a common order dated 02.06.2016, whereby, the learned Single Judge disposed of IA No.4696/2016 under Order VII Rule 14(3) read with Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC'); IA No.13360/2015 under Order XX Rule 12 read with Section 151 CPC; IA No.13359/2015 under Section 151 CPC; and IA No.287/2014 under Order XII Rule 6 read with Section 151 CPC, all in CS(OS) 597/2012.

2. It is an admitted position that prior to rendering of the impugned order dated 02.06.2016, the learned Single Judge had occasion to hear the very same applications on 27.05.2016, when the following order was passed:-

"IA Nos.4696/2016, 13359/2015, 13360/2015, 237/2014

1. These applications are disposed of as not pressed, inasmuch as, this Court is proceeding to hear final arguments in the matter. If any of the issues in these

applications concern the entitlement of the applicant with respect to the merits of the matter, it can be pressed at the stage of final arguments.”

3. A plain reading of the above extracted order clearly reveals that the applications, which have been determined by way of the impugned order dated 02.06.2016, had in fact been disposed of as not pressed in view of the circumstance that the Court was inclined to proceed with the final arguments in the matter.

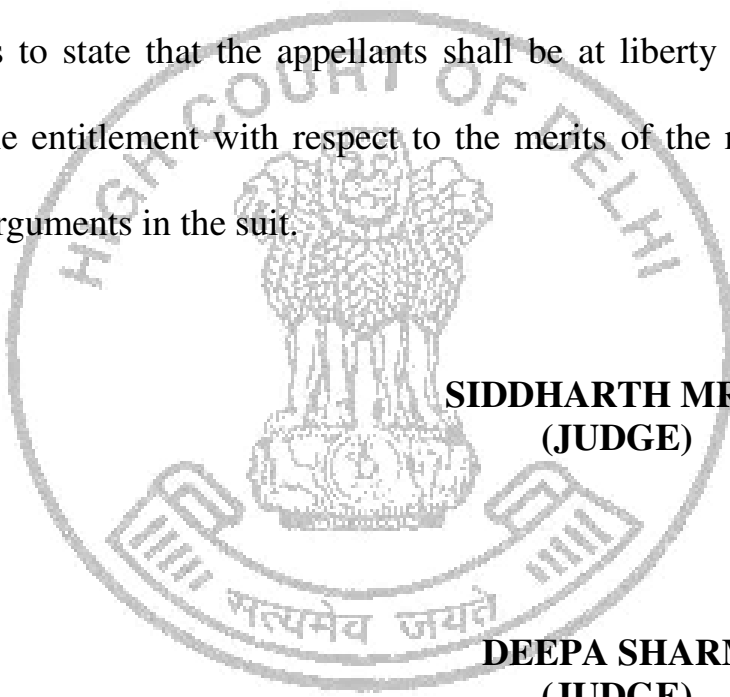
4. It is, therefore, urged by Mr. N.S. Vasisht, learned counsel appearing on behalf of the appellant that the learned Single Judge fell into error in passing the impugned order dated 02.06.2016 on the applications, which had already been disposed of by him by way of the prior order dated 27.05.2016, and resultantly, the same should be set aside. It is further submitted that I.A. No.237/2014, as mentioned in the order dated 27.05.2016 is, in fact I.A. No.287/2014. The learned counsel for the respondent has conceded that it is in fact I.A. No.287/2014 which is shown as I.A. No.237/2014 in order dated 27.05.2016.

5. It is observed that the order dated 27.05.2016, disposing of the subject applications, has not been carried in appeal by either side and has become final.

6. In that view of the matter, the impugned order dated 02.06.2016 is set aside, since in our considered view the learned Single Judge fell into error in proceeding to adjudicate applications, which had already been disposed of, as aforesaid.

7. The appeals are accordingly allowed and disposed of. The impugned order dated 02.06.2016 is set aside.

8. Needless to state that the appellants shall be at liberty to raise their concern qua the entitlement with respect to the merits of the matter, at the stage of final arguments in the suit.



SIDDHARTH MRIDUL
(JUDGE)

DEEPA SHARMA
(JUDGE)

FEBRUARY 08, 2018

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