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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) 131/2018, C.M. Appl. No. 34362-34363/2018**
AERCOMFORT PVT LTD

..... Appellant

Through: Mr. Dinesh C. Pandey, Mr. Rajeev
Gurung, Mr. Ravinder Gaur,
Advocate

versus

SANJEEV UMMAT

..... Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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27.08.2018

The plaintiff's/appellant's grievance is with respect to dismissal of its application (I.A.No.4795/2017) by the learned Single Judge, wherein the plaintiff sought the striking off of defendant's defence on account of alleged non-compliance with an order dated 20.02.2017. According to the plaintiff, the previous order had directed the defendant to discover the documents on oath. In answer, the defendant's resistance to the application was that he had discovered on oath the documents within his power and possession, in terms of an affidavit dated 25.05.2017. The learned Single Judge was in these circumstances un-persuaded by the plaintiff's argument that the discovery has not been made in terms of the previous order.

We have heard learned counsel for the appellant. He urged that the previous order requiring discovery of documents in terms of Order 11 Rule 12 CPC which are also applicable to proceedings under the provisions of the Commercial Courts Act, 2015, had not been complied with and that the consequences spelt out in Order 11 Rule 21 CPC had to be followed.

This court is of the opinion that the view of the learned Single Judge based upon the prima facie appreciation of the circumstances is not capable of interdiction in appeal given the extreme restrictions of the appellate review under Section 13 of the Commercial Courts Act. The appeal is consequently dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

AUGUST 27, 2018

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