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

+ C.R.P. 118/2017 & C.M. No.19609/2017 (for stay)

APS METAL PVT LTD (EARLIER KNOWN AS KRISHNA
METAL CO (PAT)) Petitioner

Through: Mr. Piyush Kaushik, Advocate.

versus

M/S ORANGE RECYCLING INC Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

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05.12.2018

1. By the impugned order dated 08.05.2017 passed by the court of the learned Additional District Judge-08, Central District, Tis Hazari Courts, Delhi, in Civil Miscellaneous Application No.61487/2016, the application of the defendant/respondent under Order IX Rule 13 CPC was allowed subject to payment of cost of Rs.10,000/- and the decree dated 28.05.2016 passed in Suit No.20/16 was set aside.
2. Upon making inquiry, the learned counsel for the petitioner states that on the next date of hearing in the Trial Court, he accepted the said cost of Rs.10,000/-. However, he

submits that prior to accepting the cost, the petitioner had already filed the present revision petition.

3. After having already accepted the cost of Rs.10,000/- for setting aside the impugned judgment and decree dated 28.05.2016, the petitioner/plaintiff is estopped from continuing this present petition by its act, conduct & acquiescence.

4. In the circumstances, the petition is not maintainable and the petition along with application, being C.M. No.19609/2017, is dismissed.

VINOD GOEL, J.

DECEMBER 05, 2018

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