

\$~28 & 51 (common order)

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

+ CM(M) 219/2018 and CM APPL.7379-7380/2018

PHOENIX PVT LTD

..... Petitioner

Through: Mr. Sudhir Nandrajog, Senior Advocate
with Mr. Suresh Dutt Dobhal, Adv. & Ms.
Sonaakshi Dhiman, Adv.

versus

VIDYA SAGAR & ORS

..... Respondents

Through: Mr. Biswajit Kumar Patra, Advocate

+ CM(M) 1236/2016 and CM APPL.44460/2016, 46784/2016

PHOENIX ARC PVT. LTD. ACTING IN ITS CPACITY AS
TRUSTEE OF PHOENI TRUST FY-16-15

..... Petitioner

Through: Mr. Sudhir Nandrajog, Senior Advocate
with Mr. Suresh Dutt Dobhal, Adv. & Ms.
Sonaakshi Dhiman, Adv.

versus

VIDYA SAGAR & ORS

..... Respondents

Through: Mr. Biswajit Kumar Patra, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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26.02.2018

The prime grievance of the petitioner in CM(M) 219/2018 is that the Civil Judge has expressed disinclination to decide the application under Order XXXIX Rule 4 of the Code of Civil Procedure, 1908 (CPC) of the petitioner (second defendant in the suit) in the proceedings arising out of civil suit (CS SCJ No.10035/2016) initially instituted by the first respondent

CM(M) 219/2018 etc.

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against the second respondent wherein the third respondent was later added to the fray and the petitioner by subsequent order stands substituted in place of the said third respondent.

An *ad interim* injunction is operating, statedly adverse to the interest of the petitioner by an earlier order, which is the subject-matter of challenge in CM(M) 1236/2016, now listed on 27th March, 2018 as per order dated 13.10.2017. On the request of the learned counsel for the parties, the file of CM(M) 1236/2016 has also been called for and has been listed today at serial No.51.

With the consent of both the parties, the petitioner withdrawing both the petitions as captioned above, it is directed that the civil Judge shall hear the parties and consider and pass an appropriate order in accordance with law on the pending application under Order XXXIX Rule 4 CPC within four weeks hereof.

For such purposes, the parties shall appear before the Civil Judge on 7th March, 2018, as is stated to be already fixed. The period of four weeks shall begin from the said date.

Both the petitions and the applications filed therewith stand disposed of in above terms.

Dasti under the signatures of Court Master.


R.K.GAUBA, J.

FEBRUARY 26, 2018
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