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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA 15/2017**

SUBHASH KUMAR

..... Appellant

Through: Mr. S.P.Gairola, Advocate.
Appellant in person.

versus

ARCHANA DEVI

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **20.07.2018**

1. This first appeal under Section 96 CPC is filed by the defendant in the suit impugning the order by which a consent decree has been passed against the appellant/defendant.
2. As per the provision of Section 96(3) CPC, an appeal does not lie against a consent order/judgment.
3. The subject suit was an Order 37 CPC suit filed by the respondent/plaintiff for recovery of Rs.3,50,000/- alongwith interest and the order dated 22.8.2016 records that the disputes were settled and the respondent/plaintiff was to receive a sum of Rs.2,25,000/- from the appellant in instalments. The subsequent order dated 15.9.2016 records that even the

first instalment was not paid. The orders dated 22.8.2016 and 15.9.2016 read as under:-

ORDER DATED 22.08.2016

“Present: Sh. Satish Kumar, husband of plaintiff
alongwith Cl.
Defendant alongwith Cl.

With the intervention of this court matter is settled between the parties for a total sum of Rs.2,25,000/- with amount would be payable by defendant in three installments of Rs.75,000/- each to be paid on 15.9.16 and 15.11.16 to the plaintiff. Statements of parties recorded to that effect separately. In view of the same let matter be put up for payment of first installment on 15.9.16.”

ORDER DATED 15.09.2016

“Present: Counsel for plaintiff.
None for defendant.

The defendant has entered into agreement with plaintiff and first installment was to be paid today. None is present on behalf of defendant despite several calls.

It is clear that once defendant has entered into agreement, it is clear that he has admitted the liability so there is no question of any leave to defend as the suit is U/o 37 CPC and I hereby decree the same forthwith for whole of the amount of Rs.3,50,000/- alongwith interest @ 12% P.A. from 10.10.2013 till realisation with interest. Decree sheet be prepared. File be consigned to record room.”

4. Since a decree has already been passed and it is a consent decree,

there does not arise any issue of interference in the same.

Dismissed.

VALMIKI J. MEHTA, J

JULY 20, 2018

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