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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RSA 208/2017 & CM No.13115/2018 (for restoration of appeal dismissed
for non-prosecution on 13th March, 2018)
NORTH INDIA BOXING ASSOCIATION (NIBA) Appellant
Through: Mr. Yash Anand, Mr. David A. & Mr.
Rahul Kumar, Advs.
Versus
PROFESSIONAL BOXING ORGANIZATION
OF INDIA (REGD) & ORS Respondents
Through: Mr. K.K. Khurana & Mr. Amit Kumar
Singh, Advs. for R-2 to 7.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER
% **23.07.2018**

1. This Second Appeal under Section 100 of the Code of Civil Procedure, 1908 (CPC) impugns the order [dated 3rd August, 2017 in RCA No.20/2017 of the Court of Additional Senior Civil Judge-cum-Guardian Judge, District West, Tis Hazari Courts, Delhi] of dismissal of First Appeal under Section 96 of the CPC preferred by the appellant / plaintiff against the order [dated 7th July, 2017 in Suit No.863/2017 of the Court of Senior Civil Judge, District West, Tis Hazari Courts, Delhi] of rejection of the plaint in the suit filed by the appellant / plaintiff against the respondents / defendants.
2. This appeal came up before this Court first on 11th August, 2017, when, without indicating the substantial question of law, notice thereof was ordered to be issued and the Trial Court record requisitioned.
3. Mr. K.K. Khurana, counsel for the respondents no.2 to 7 / defendants appeared in response to the notice. None appeared for the respondent no.1 / defendant who, vide order dated 6th December, 2017, was proceeded against *ex parte*. On the next date i.e. 13th March, 2018, none appeared for the appellant / plaintiff and the appeal was dismissed for non-prosecution.

4. CM No.13115/2018 has been filed for restoration of the appeal and notice thereof was ordered to be issued.
5. Counsel for respondents no.2 to 7 appears.
6. Though there is no report of service of respondent no.1 / defendant but the respondent no.1 / defendant being already *ex parte* when the appeal was dismissed for non-prosecution, need to await service of respondent no.1 is not felt.
7. For the reasons stated, CM No.13115/2018 is allowed and RSA is restored to its original position.
8. The counsel for the appellant / plaintiff has been heard on the aspect of substantial question of law if any arising in this appeal.
9. The counsel for the respondents no.2 to 7 / defendants have also been heard.
10. One of the arguments of the counsel for the respondents no.2 to 7 / defendants is that the suit from which this appeal arises was merely for the relief of permanent injunction restraining the respondent / defendants from holding the events of professional boxing at Siri Fort Stadium, New Delhi from 7th July, 2017 to 12th August, 2017 and which relief in any case is now infructuous.
11. The counsel for the appellant / plaintiff, during rejoinder arguments, withdraws this Second Appeal stating that as and when a fresh cause of action arises, the appellant / plaintiff will invoke the appropriate remedies.
12. The appeal is dismissed as withdrawn with liberty aforesaid in accordance with law.

RAJIV SAHAI ENDLAW, J

JULY 23, 2018

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