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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RSA 246/2017, CM No.37334/2017 (*u/O 41, R.5 CPC for stay*)

RAJIV MANAKTALA Appellant

Through: Mr.Anil Sharma, Mohd. Parvez,
Mr.Sandeep Kumar, Advocates

versus

NEELAM JAIN Respondent

Through: Mr.M.K. Sethi, Advocate

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

25.07.2018

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1. This Regular Second Appeal under Section 100 of the CPC was preferred against the order/judgment [dated 10th July, 2017 in RCA No.40/2017 (CNR No.DLST01-003089-2017) of the Court of Additional District Judge-03, South] of dismissal of the application filed by the appellant / defendant for condonation of delay in preferring the first appeal and the consequent dismissal of First Appeal under Section 96 of the CPC preferred by the appellant against the judgment and decree [dated 24th December, 2016 in Civil Suit No.83761/2016 (CNR No.DLST03-000198-2011) of recovery of Rs.2 Lakhs with interest and costs in favour of the respondent / plaintiff and against the appellant / defendant.

2. This second appeal came up first before this Court on 17th October, 2017, when notice thereof was ordered to be issued and subject to the entire decretal amount being deposited in this Court, execution stayed.

3. The appeal was listed last on 17th July, 2018, when owing to defaults on the part of the appellant / defendant, costs of Rs.20,000/- were imposed on the appellant / defendant and a query as to the maintainability of the appeal was made from the counsel for the appellant / defendant.
4. The counsel for the appellant / defendant today states that he withdraws this second appeal. It is further stated that the entire decretal amount will be paid to the respondent / plaintiff / decree holder within ten days of today. The counsel for the appellant / defendant further states that the FDRs for the decretal amount in the name of the Registrar General of this Court are in his custody and will be encashed and the decretal amount paid to the respondent / plaintiff / decree holder.
5. Subject to the aforesaid, the counsel for the respondent / plaintiff / decree holder has no objection.
6. In view of the aforesaid, the costs of Rs.20,000/- imposed on the last date stand waived.
7. The appeal is dismissed as withdrawn.
8. If the entire decretal amount is not paid to the respondent / plaintiff / decree holder within ten days of today, the respondent / plaintiff / decree holder shall be entitled to execute the decree.
9. No costs.

RAJIV SAHAI ENDLAW, J

JULY 25, 2018

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