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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RFA 889/2017

SATISH KUMAR GARG

..... Appellant

Through: Mr. Vijay Shankar, Advocate.

versus

M/S SATYAKAM FINLEASE PVT LTD

..... Respondent

Through: Mr. M.P. Sinha, Advocate.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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09.05.2018

1. In view of the ratio of the judgment delivered by this Court in the case of *IFCI Factors Limited Vs. Maven Industries Limited and Ors., 2015 (255) DLT 32* holding that Order 37 CPC suit does not lie for seeking balance due on the foot of account, and an Order 37 CPC suit can lie only when there is a dishonoured negotiable instrument or a written agreement containing a liquidated amount as a liability to pay, therefore by consent the impugned judgment dated 9.6.2017 is set aside and the request of respondent/plaintiff is accepted to treat the subject suit as an ordinary suit for recovery of money and not one which is filed under Order 37 CPC. It is also agreed that the appellant will not take unnecessary adjournment in the suit and both the parties will not get more than five opportunities to complete their evidences.

2. List before the District and Sessions Judge, West District, Tis Hazari Courts, Delhi, on 30th May, 2018 and the District and Sessions Judge will mark the suit for disposal to a competent court in accordance with law.

Dasti to counsels for the parties.

VALMIKI J. MEHTA, J

MAY 09, 2018

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