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

+ **FAO(OS) (COMM) 187/2017**

SHAKTI MATTRESSES & GEARS PVT LTD. Appellant
Through None

versus

PEPS INDUSTRIES PVT LTD.Respondent
Through Ms. Suveni Bhagat, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **24.04.2018**

CM No. 12275/2018

Non-applicant/appellant has been served. Counsel for the applicant states that counsel for the non-applicant was also served and informed of the order on telephone. In spite of the matter being passed over twice none has appeared for the non-applicant. This Bench is clearly of the view that there is a typographical error in the order dated 29.01.2018, as it was directed that an application under Order XXIII Rule 3 of the Code of Civil Procedure, 1908 and not an application under Order XXIII Rule 1 of the said Code would be moved.

Counsel for the applicant has drawn our attention that an order is now passed by the Single Judge dated 05.03.2018 disposing of CS (Comm.) No. 1454/2016.

We would clarify that the non-applicant i.e. Shakti Mattresses & Gears Pvt. Ltd. would be bound by their affidavit cum undertaking that they would not use the trade mark SPINEGUARD/SPINE GUARD or any similar trade mark in future. In case there is violation to the said undertaking, applicant is at liberty to file contempt proceedings before the Single Judge. The applicant may also move an application before the Single Judge, if so advised in view of the order passed today.

The application is disposed of.

Dasti under signature of the Court Master.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

APRIL 24, 2018

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