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

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Date of Order: 01st June, 2018

+ **FAO(OS) (COMM) 217/2017**

GIRISH B S & ANR.

..... Appellants

Through: Mr.Roshan Santhalia, Advocate

versus

JK TECHNOSOFT LIMITED

..... Respondent

Through: Mr.Sachin Datta, Sr.Adv. with
Ms.Gayatri Verma and Mr.Yatender,
Advocates.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. The present appeal filed under Section 13 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter referred to as 'the Act') read with Order XLIII Rule 1 of the Code of Civil Procedure 1908 (hereinafter referred to as 'CPC'), is directed against the order dated 08.11.2017 passed by the learned Single Judge by which the application being I.A. No.5079/2017 (under Order XXXIX Rule 1 & 2 CPC) has been allowed and I.A. 7882/2017 (under Order XXXIX Rule 4 CPC) filed by the defendant no.1-appellant herein has been dismissed.
2. At request of the parties file of CS (OS) 301/2017 is called and listed in Court today.
3. Notice was issued in this matter. Parties had expressed their desire to amicably resolve the matter. We had referred the matter to a named Mediator. Although several sittings were held but parties could not

resolve the matter finally. Before this Court, the parties have entered into an amicable settlement on the following terms.

- I. The appellant agrees and undertakes to tender an unconditional apology to the respondent for being in breach of the NDA and confidentiality undertaking and for consequential losses and inconvenience suffered by the plaintiff in the suit on or before 04.06.2018. The appellant agrees and undertakes to pay Rs.7.5 lakhs as compensation within a period of six months from today in the following manner:
 - (i) Rs.5 lakhs shall be paid on or before 04.06.2018; and
 - (ii) Balance amount of Rs.2.5 lakhs shall be paid on or before 30.11.2018.
- II. The appellant also agrees and undertakes not to hire any existing employee of the respondent.
- III. The respondent agrees and undertakes to withdraw all criminal proceedings initiated against the appellants after the entire payment stands cleared (as per schedule) by 15.12.2018 and in case, the payment is cleared before 30.11.2018 then within 15 days thereafter, parties agree to seek an adjournment in criminal matters till 30.11.2018 and in case, the settlement is complied with prior to 30.11.2018, the criminal proceedings shall be withdrawn accordingly.
- IV. Both parties agree that the terms of the settlement shall be treated as an undertaking to the Court and the parties shall file their respective affidavits agreeing to abide by the terms of the settlement arrived at and recorded in the order today.

4. Counsels for the parties submit that they have informed their clients regarding the consequences of breach of undertaking given to the Court.
5. Having regard to the settlement arrived at between the parties, it is agreed that all the disputes and differences between the parties stand settled.
6. The Court appreciates the efforts put in by the learned counsels for the parties for early resolution of the matter. Parties submit that substantial efforts were also made by the learned Mediator and both the parties shall pay an honorarium of Rs.1 lakh each to the Mediator.
7. Since the parties have entered into an amicable settlement in FAO (OS) (COMM) 217/2017, the suit being CS (OS) 301/2017 is decreed in terms of the settlement. In case, the payment is not made within the stipulated period, the appellants shall be liable to pay interest at the rate of 18 % per annum on the agreed amount. Copy of the order passed in the appeal shall be placed in the suit file and decree sheet be drawn up accordingly.
8. Having regard to the fact that the settlement has been arrived at through the mediation of the Court, the plaintiff would be entitled for refund of court fee. Necessary certificate shall be issued.
9. The appeal stands disposed of in the above terms.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

JUNE 01, 2018/rb/