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

+ **FAO(OS) (COMM) 45/2019**
SATISH KUMAR

..... Appellant

Through Mr. Kirti Uppal, Sr. Advocate with Mr.
Harsh Kumar & Mr. Aditya
Awasthi, Advocates.

versus

KHUSHBOO SINGH & ORS.

..... Respondents

Through None.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **26.02.2019**

CM APPL 9204/2019 (exemption)

1. Exemption is allowed subject to just exceptions.
2. Application stands disposed of.

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3. Challenge in this appeal is to the order dated 18.02.2009. The plaintiff has filed a suit filed for permanent and mandatory injunction, damages and other reliefs. Alongwith the plaint, an application under Section 39 Rules 1 and 2 of the Code of Civil Procedure seeking an ex-parte order was filed. While issuing summon in the suit, an ex-parte injunction has been declined which has led to filing of the present appeal.
4. Mr. Kirti Uppal, learned Senior Counsel appearing for the appellant submits that the learned Single Judge has declined the relief so claimed on the basis of an earlier judgment rendered by the same Court in the case of *Navigators Logistics Ltd. Vs. Kashif Qureshi*, reported at **2018 SCC**

OnLine Del 11321. Counsel submits that the case of the appellant is different to the facts in the case of ***Navigators Logistics Ltd. (supra)***. Mr. Uppal further submits that the learned Single Judge has failed to consider a decision of the Apex Court in the case of ***Eastern Book Company & others Vs. D.B. Modak & another*** reported at ***2008 (1) SSC 1***, which would support the case of the appellant/plaintiff.

5. Heard.
6. We have examined the impugned order. Reading of the order would show that *ex parte* relief has been declined and not as if the application seeking interim relief has been dismissed. The next date fixed before the learned Single Judge is 14.03.2019. Since, Mr. Uppal has contended that the facts of the present case are different to the case of ***Navigators Logistics Ltd. (supra)*** and further he is supported by another decision of the Supreme Court, we have no hesitation in saying that on 14.03.2019, the ground sought to be urged before us, would be urged before the learned Single Judge and the learned Single Judge would consider the same on 14.03.2019.
7. The appeal alongwith CM APPL 9203/2019 is disposed of in above terms.

G.S.SISTANI, J

JYOTI SINGH, J

FEBRUARY 26, 2019/ck/

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