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

+ **FAO(OS) (COMM) 197/2019 & CM APPLs. 37230-37234/2019**

PARESH MEHTA

..... Appellant

Through: Mr. G.Tushar Rao and Mr. Sreenath
S., Advocates

versus

WHATMAN INTERNAIONAL LTD & ORS

.....Respondents

Through: Mr. Shobhit Agrawal, Advocate for
respondent No.1

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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20.08.2019

1. The appellant/defendant is aggrieved by an order dated 01.02.2019, passed by the learned Single Judge on I.A. No. 5235/18, filed by the respondent/plaintiff under Order XXXIX Rule 2A CPC in CS (COMM) 351/2016. It is pertinent to note that on the same date, the learned Single Judge had decreed the captioned suit in favour of the respondent/plaintiff. Aggrieved by the judgement and decree dated 01.02.2019, the appellant preferred an appeal, registered as RFA (OS) (COMM) 21/19, which was admitted on 13.05.2019, by the Division Bench of which one of us (Hima Kohli, J.) was a member. On the said date, in view of the submission made by learned counsel for the appellant that his client was unwilling to deposit any amount in terms of the impugned judgment and decree, the Court had expressed its disinclination to grant any interim order in his favour and the stay application (CM 21533/19) moved by him, was dismissed.

2. As far as I.A. 5235/2018 is concerned, in the order dated 01.02.2019, the learned Single Judge held the defendants No. 1 to 5 and 7 & 8 guilty of contempt and the application was adjourned to 05.03.2019, for hearing arguments on the quantum of punishment to be awarded.

3. The appellant in the present appeal happens to be defendant No.1 in CS (COMM) 351/2016. Though there is no averment made in the appeal, learned counsel for the respondent, who appears in Court on seeing the matter listed in the cause-list, submits that after 01.02.2019 the captioned application was listed before the learned Single Judge on three dates i.e. 28.02.2019, 02.05.2019 and 30.05.2019 and now that the application is listed before the learned Single Judge day after tomorrow, the appellant has woken up to approach this Court by filing the present appeal, which is even otherwise not maintainable. He contends that if it is the stand of the appellant that the learned Single Judge has not correctly applied the provisions of Section 14 of the Contempt of Courts Act by affording the appellant an opportunity to put forth his defence to the charge and grant him a hearing to determine the matter of charge, then he had all the opportunity to file an appropriate application and point out the error in the procedure followed in the order dated 01.02.2019. It is thus submitted that the appellant has been deliberately dragging his feet knowing very well that the date of hearing fixed before the learned Single Judge for passing order on sentence is two days away, on 22.08.2019.

4. At this stage, learned counsel for the appellant states that he may be permitted to withdraw the present appeal. He further states that the appellant shall appear before the learned Single Judge on the date fixed and take all the pleas that may be available to him both on law and on facts.

5. Leave as prayed for is granted. The appeal is dismissed as withdrawn alongwith all the pending applications.

HIMA KOHLI, J

ASHA MENON, J

AUGUST 20, 2019

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