

\$~10

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

+ RFA 920/2018 & CM No. 46727/2018 (stay)

SANJEEV KUMAR Appellant

Through: Mr. Satender Verma, Advocate

versus

SATYENDRA KUMAR SINGH Respondent

Through: Mr. Kunal C. Suman and Mr. Vineet Mishra, Advocates.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **18.02.2019**

1. When notice was issued in this appeal on the last date of hearing on 13.11.2018, the following order was passed:-

"C.M. No.46728/2018(exemption)"

1. Exemption allowed subject to just exceptions.
C.M. stands disposed of.

+RFA No.920/2018 and C.M. No.46727/2018(stay)"

2. Notice be issued to the respondent, on filing of process fee, both in the ordinary method as well as by registered post AD, returnable on 18th February, 2019.
3. The issue in the present appeal is limited one of extension of time for filing of the bank guarantee by the appellant/defendant and which was a condition precedent for grant of leave to defend. Though there is some delay in filing of the bank guarantee, however, delay is not such that the rights of the appellant/defendant to contest the suit on merits should be taken away and

which has been done by the impugned order by dismissing the application for extension of time, and consequently the suit of the respondent/plaintiff for recovery has been decreed.

4. Counsel for the appellant states that the bank guarantee for the entire suit amount has been deposited by the appellant/defendant in the trial court.

5. In view of the above, till further orders unless varied by the Court, there shall be stay of operation of the impugned judgment and decree dated 26.7.2018 passed by the Court of Sh. Murari Prasad Singh, ADJ-3 (Central), Tis Hazari Courts, Delhi in New CS No.14935/2016 titled as ***Satyendra Kumar Singh Vs. Sanjeev Kumar.***”

2. Since the issue is of grant of leave to defend and the appellant has in fact now deposited the bank guarantee for the suit amount in the trial court, this appeal is allowed and the appellant/defendant is granted leave to defend to contest the suit. In fact, counsel for the appellant/defendant states that pleadings in the suit are complete.

3. The appeal is therefore disposed of by extending the time for granting the bank guarantee till the same was filed by the appellant/defendant in the trial court.

4. Parties and their Advocates are directed to appear before the District and Sessions Judge, Central, Tis Hazari Courts, Delhi on 14th March, 2019, and the District and Sessions Judge will now mark the suit for disposal to a competent court, in accordance with law, and by further noting that before the proceedings in the suit commence on merits, parties will

endeavour to settle the matter in mediation as agreed.

5. The appeal is accordingly disposed of with the aforesaid observations.

VALMIKI J. MEHTA, J

FEBRUARY 18, 2019

ib