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

Date of Decision: 17.01.2020

+ **FAO(OS) (COMM) 13/2020**

CHASVINDER SINGH Appellant

Through: Mr. Amit Sibal, Sr. Adv. with
Ms.Savita Malhotra, Ms. Suman Malhotra,
Ms.Aishvary Vikram, Ms. Krats Tiwari &
Ms.Swati Rajan, Advs.

versus

M/S SWISS AUTO PVT LTD & ORS Respondents

Through: Mr. C.M. Lall, Sr. Adv. with Mr.Lalit
Bhardwaj, Mr. Jatin Sharma, Mr. Jatin Anand
Dwivedi & Mr. Shubhanan Chaturvedi, Advs.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

: **D.N. PATEL, Chief Justice (Oral)**

CAV 36/2020

Since learned counsel for the caveators are present, caveat stands discharged.

CM APPL.1566/2020 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

FAO(OS) (COMM) 13/2020

1. This appeal has been preferred by this appellant/original plaintiff in CS(OS)(COMM) 715/2016 wherein IA No.12829/2018 was preferred by him for expunging certain lines or paras of examination-in-chief filed by defendant No.2's witness Esvinder Singh.

2. After hearing arguments for some time, the learned counsel for appellant submits that suffice it would be for the disposal of this appeal if this Court observes that the main contention of this appellant (original plaintiff) is about the relevancy of certain paragraphs of the examination-in-chief affidavit by the defence witness namely Esvinder Singh and also about the fact that certain portion of the examination-in-chief affidavit filed by the very same witness is travelling beyond the proceedings. These two issues may be kept open at the time of final hearing of CS(OS)(COMM) 715/2016 because the plaintiff shall cross-examine in detail the aforesaid witness on the aforesaid two aspects and on other relevant aspects and on other relevant facts.

3. We have heard the learned counsel for respondents. They have submitted that they have no objection if these two aforesaid issues namely about the relevancy and beyond the pleadings are kept open to be decided by the learned Single Judge at the time of final hearing of CS(OS)(COMM) 715/2016.

4. With aforesaid limited submission, we hereby dispose of this FAO

with observation that the order dated 21st October, 2019 (Annexure XI) passed by the learned Single Judge in IA No.12829/2018 and the observations of the learned Single Judge in paras 8 to 12 about relevancy and beyond pleadings are concerned, the same shall be tentative in nature and these two issues about the relevancy and beyond the pleadings of certain paragraphs or lines of the affidavit of defendant No.2 – Esvinder Singh shall be finally decided at the time of final hearing of CS(OS)(COMM) 715/2016 and without being influenced by the order passed by the learned Single Judge in IA No.12829/2018 *vide* order dated 21st October, 2019.

5. With the aforesaid observations, this appeal is hereby disposed of.

C.M. No. 1567/2020 (*Stay*)

6. In view of the final order passed in FAO(OS)(COMM) 13/2020, this application stands disposed of as infructuous.

CHIEF JUSTICE

C.HARI SHANKAR, J

JANUARY 17, 2020
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