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

+ **CS(OS) 125/2020**

NUANCE COMMUNICATIONS INC. AND ANR.Plaintiffs

Through: Mr. Inder Raj Gill, Advocate.

versus

VIJAY ANTHONYDefendant

Through: Mr. Bhuvan Mishra, Advocate for
Ms. Anu Bagai, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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05.08.2020

[Court hearing convened *via* video-conferencing on account of COVID-19]

I.A. No. 6557/2020

1. This is an application in which the following substantive prayer has been made: -

*“A. Exempt the Plaintiffs and the Defendant from filing duly attested affidavits and from making payment of the applicable court fee in relation to the said application during the prevailing restrictions;
B. Allow the accompanying application to be taken up (along with the instant suit CS (OS) 125 of 2020) with deficit Court Fees;”*

2. The captioned application has been filed along with I.A. No. 6556/2020 which is a joint application filed by the parties to place on record the Settlement Agreement dated 31.07.2020 [in short “SA”] arrived at between them.

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3. Therefore, the prayers made in the captioned application are allowed, subject to the parties curing the deficiencies referred to in the captioned application within five days of the lockdown *qua* this Court being lifted notwithstanding the fact that the proceedings in the instant suit will come to an end today.

3.1 The undertaking of the counsel for the parties, in this behalf, is taken on record.

4. Accordingly, the captioned application is disposed of.

I.A. No. 6556/2020

5. This is a joint application filed by the parties under Order XXIII Rule 3 of the Code of Civil Procedure, 1908.

6. The captioned application is accompanied by the SA. The captioned application bears the signatures of the counsel for the parties.

6.1 The captioned application has been signed on behalf of the plaintiffs by one Ms. Amrita Vijaykumar who claims to be the authorized signatory of plaintiff no. 1 and director of plaintiff no. 2. The captioned application also bears the signature of Mr. Vijay Anthony i.e. the defendant.

6.2 Furthermore, the captioned application is also accompanied by the affidavits of Ms. Amrita Vijaykumar i.e. authorized signatory of plaintiff no. 1 and director of plaintiff no. 2 as well as Mr. Vijay Anthony i.e. the defendant.

7. I have perused the terms of the SA.

7.1 The terms of the SA are lawful, save and except, the reference made in clause 3 (i) of the said agreement to the aspect that any breach by the defendant i.e. the second party of the provisions of Clause 5 of the Employment Agreement executed by him with plaintiff no. 1 will be considered as “criminal breach of trust”.

8. To my mind, if there is a violation of the provisions of Clause 5 of the Employment Agreement and as to whether or not the said infraction will constitute “criminal breach of trust” will be an aspect which the concerned Court will rule upon.

8.1 In other words, parties, by contract, cannot decide as to whether or not the alleged infraction will constitute “criminal breach of trust”.

9. Counsel for parties agree that the SA should stand modified to that extent.

9.1 It is ordered accordingly.

10. As prayed by counsel for the parties, the captioned application is allowed in terms of prayer clause (A) & (B).

10.1 Consequently, the SA is taken on record.

10.2 The instant suit is decreed in terms of the SA.

10.3 The SA shall form part of the decree and will be marked as Exhibit. ‘A’.

10.4 A decree will be drawn up in the aforementioned terms.

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11. In view of the order passed today in I.A. No. 6556/2020, the suit is decreed in terms of what is stated hereinabove *qua* the said I.A.

12. The suit shall, accordingly, stand consigned to record.

RAJIV SHAKDHER, J

AUGUST 05, 2020

C/KK

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Click here to check corrigendum, if any
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Signature Not Verified

digitally signed by VIPIN
KUMAR RAY
signing date 06.08.2020
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