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

+ **FAO(OS) (COMM) 85/2023 and CM APPL. 21734/2023**

PANKAJ DAYAL

..... Appellant

Through: Mr. B. B. Gupta, Sr. Adv with Mr.
Amit Khanna, Mr. Desh Raj and Ms.
Rashmi Raj Vardhan, Advs.

versus

AMANPREET SINGH KOHLI

..... Respondent

Through: Ms. Supriya Juneja, Ms. Charu
Sharma and Mr. Mohit Seth, Advs.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

18.01.2024

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1. The appellant has filed the present appeal impugning an order dated 27.03.2023 passed by the learned Single Judge under Order XIII A of the Code of Civil Procedure, 1908 (hereafter '**the CPC**') directing the appellant to deposit a sum of ₹ 4,50,00,000/- within a period of four weeks failing which, the appellant's defence would stand closed.

2. The learned counsel appearing for the respondent submits that the present appeal is not maintainable as the impugned order does not lie in terms of the Order XLIII Rule 1 of the CPC. She further submits that, thus, in terms of Section 13 of the Commercial Courts Act, 2015, the present appeal would not be maintainable. She also referred to the decision of the Hon'ble Supreme Court in *Kandla Export Corporation & Anr. v. OCI Corporation & Anr.: (2018) 14 SCC 715*, as well as the decision of this Court in *Odeon Builders Pvt. Ltd. Vs. NBCC (India) Ltd.: 2021 SCC*



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3. The said contention is merited. The present appeal is not maintainable and is, accordingly, dismissed. Pending applications, if any, also stand disposed of.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

JANUARY 18, 2024
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Click here to check corrigendum, if any