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

+ **CS(OS) 618/2024**

ONKAR INFOTECH PVT. LTD

.....Plaintiff

Through: Mr.Jayant Mehta, Sr. Adv. and
Mr.Dayan Krishnan, Sr. Adv.
with Mr.Karan Luthra,
Mr.Namen, Mr.Yogesh,
Mr.Sanjeevi, Adv.

versus

DELHI INTERNATIONAL AIRPORT LTD. & ORS.

.....Defendants

Through:

Ms.Kanika Agnihotri, Adv. for
D-3.
Mr.A.M.Singhvi, Sr. Adv. and
Mr.Amit Sibal, Sr. Adv. with
Mr.Amitabh Chaturvedi,
Mr.Rishav, Mr.Ankit MONGa,
Ms.Rimjhim Suhani, Adv. for
D-2 and 4.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **05.08.2024**

I.A. 35508/2024 and I.A. 35509/2024 (exemption)

1. Allowed, subject to all just exceptions.

CS(OS) 618/2024 & I.A. 35507/2024

2. The learned senior counsels for the defendants, who appeared on an advance notice, raised a preliminary objection that in terms of the Lease Deed, as the Suit Property is being used exclusively in Trade and Commerce, in terms of Section 2(1)(c)(vii) of the



Commercial Courts Act, 2015 (in short, 'CC Act'), the Suit raises a commercial dispute and therefore, the plaintiff could have instituted only a Commercial Suit.

3. On this objection, the learned senior counsel for the plaintiff, on instructions, prays for leave to withdraw the present Suit with liberty to file a commercial Suit. He prays that the court fee which has been deposited with the present Suit be returned forthwith as the plaintiff intends to file a commercial Suit seeking urgent relief.
4. The Suit is accordingly dismissed as withdrawn with liberty to the plaintiff to institute a commercial Suit on the same cause of action, if so advised. The court fee deposited by the plaintiff with the present plaint be returned to the plaintiff forthwith.
5. This shall however, not be considered as an expression of opinion on the eligibility of the plaintiff to file the commercial Suit without resorting to the pre-institution mediation as required in Section 12A of the CC Act.

NAVIN CHAWLA, J

AUGUST 5, 2024

RN/VS

Click here to check corrigendum, if any