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

+ RFA(COMM) 355/2024

VIJAY BANSAL

.....Appellant

Through: Ms.Kirti Mewar, Adv.

versus

THE KARNATAKA BANK LTD AND ORS

.....Respondents

Through: Mr.Rakesh Garg, Adv. for R-1.

Dr.Vikrant Vasudeva & Mr.Rohit Lochan, Adv.
for R-2.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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05.11.2024

1. The present appeal under Section 96 of the Code of Civil Procedure, 1908 seeks to assail the judgment and decree dated 12.07.2024 passed by the learned District Judge (Commercial Court), North District, Rohini Courts, Delhi, in CS (COMM.) 119/2022, insofar as the appellant's prayer for a decree against respondent nos.1 & 2 has been rejected.
2. On the last date, learned counsel appearing on behalf of respondent nos.1 & 2 had stated that the suit, as filed by the appellant on 02.03.2022, was not maintainable as a moratorium against defendant no.3/company(respondent no.3 in the present appeal) was already subsisting on account of the order passed by the learned National Company Law Tribunal (NCLT), Allahabad Bench on 06.12.2021 in



CP No.(IB)262/ALD/2019. It is in the light of the aforesaid that time was granted to the learned counsel for the appellant to obtain instructions.

3. Today, she fairly concedes that in view of the said moratorium, the suit as filed could not have been tried or decreed.
4. Consequently, in the light of this admitted position that when the aforesaid suit being CS (COMM.)119/2022 was instituted by the appellant/plaintiff, a moratorium was existing against the respondent no.3/company, this Court has no other option but to set aside the impugned judgment and decree.
5. The appeal is, accordingly, allowed by setting aside the impugned judgment and decree by making it clear that it will be open for the appellant to avail of any other remedy as per law not only in respect of the claim(s) raised in the suit against respondent no.3 but also respondent nos.1 & 2, which claim(s) will be decided as per law in any proceeding as the appellant may chose to initiate.
6. At this stage, learned counsel for the appellant prays for disposal of CM APPL.49287/2024, whereby the appellant is seeking directions for the respondent no.1/bank to release in its favour the interest accrued on FDR No.819093, during the pendency of the present appeal.
7. Taking into account that the appeal itself is being allowed by setting aside the impugned judgment and decree, we find no reason to entertain the application being CM APPL.49287/2024 which is, accordingly, dismissed leaving it open for the appellant to seek legal recourse as permissible in law in respect of the claim raised in the



application.

REKHA PALLI, J

SAURABH BANERJEE, J

NOVEMBER 5, 2024/kk