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

+ **FAO(OS) (COMM) 213/2024 and CM APPL. 54740/2024, CM APPL. 54741/2024, CM APPL. 54742/2024, CM APPL. 54743/2024**

BANK OF MAHARASHTRA

.....Appellant

Through: Mr. Nishant Awana, Ms. Rini Badoni,
Ms. Nitya Sharma, Advocates and
Mr. Vaibhav Yadav, Chief Manager,
Bank of Maharashtra.

versus

ASIAN HOTELS NORTH LTD & ORS.

.....Respondents

Through: Mr. Sidhant Kumar, Mr. Om Batra,
Ms. Manyaa Chandok, Dr. Rajeshwar
Singh, Ms. Molly Aggarwal,
Mr. Rachit and Mr. Siddharth Sharma,
Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER
18.09.2024

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1. The present appeal has been preferred under Order XLIII Rule 1 of the Code of Civil Procedure, 1908, read with Section 13 of the Commercial Courts Act, 2015 seeking setting aside of order dated 03.03.2023 passed by the learned Single Judge in I.A.No.1746/2023, in CS (Comm.) No.128/2022.
2. Vide impugned order dated 03.03.2023, the learned Single Bench has allowed the application under Order I Rule 10 CPC filed by the proposed defendant-Exclusive Capital Limited, recording no objection of the plaintiff.



3. Though the present appeal has been filed on 23 grounds, learned counsel for the appellant has confined the relief to grounds (b),(d), (j), (k), (n), (o) and (p).
4. It is not in dispute that the impugned order passed in the application filed under Order 1 Rule 10 CPC and also it is not in dispute that the appellant herein also filed under Order 1 Rule 10 CPC application and Order 39 Rule 4 CPC, which are pending adjudication before the Single Judge.
5. The ground mentioned in the present appeal are almost the same grounds as taken in Order 39 Rule 4 CPC application filed by the appellant.
6. Accordingly, the appellant has approached two courts simultaneously by filing aforesaid application and the present appeal.
7. In view of the above, we find no merit in the appeal. Accordingly, the appeal is dismissed.
8. Pending applications also stand disposed of.

SURESH KUMAR KAIT, J

SHALINDER KAUR, J

SEPTEMBER 18, 2024