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

+ **FAO(OS) 1/2026**

INDERJEET SINGH BINDRAAppellant

Through: Mr. Shyamal Kumar, Advocate.

versus

RAMESH KUMAR THROUGH LRS ORS.Respondents

Through: Mr. Aashish Mohan, Sr.
Advocate with Mr. V. P. Rana,
Mr. Rajat Agnihotri and Mr.
Kunal Mittal, Advs.

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MS. JUSTICE RENU BHATNAGAR

ORDER

% **08.01.2026**

CM APPL. 1019/2026 (Exemption)

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

FAO(OS) 1/2026, CM APPL. 1017/2026 (stay) & CM APPL. 1018/2026 (Delay 46 days in filing)

3. The present appeal has been filed under Section 10 of the Delhi High Court Act, 1966 (hereinafter referred to as, 'DHC Act') assailing the Order dated 10.10.2025, passed by the learned Single Judge in I.A. No. 25278/2025 in CS(OS) No. 63/2017, whereby the application filed by the Defendant No. 1 (b) was allowed.

4. By the said Impugned Order, the learned Single Judge has restrained the Joint Registrar from taking up I.A. Nos. 12901/2025 &



12902/2025, filed on behalf of the appellant, seeking setting aside of the abatement of the suit against the defendant Nos. 4, 6, 9 & 11. Further, the aforesaid applications were directed to be heard after the applications being, I.A. No. 1955/2024 & I.A. No. 6409/2025, filed on behalf of the respondent herein, under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as, 'CPC'), seeking rejection of plaint, are decided by the learned Single Judge.

5. An objection is raised by the learned senior counsel for the respondent submitting that the present appeal is not maintainable as the impugned Order does not come under the definition of the term 'Judgment' under Section 10 of the DHC Act. In support of his contentions, he has placed reliance upon the decision of this Court in **Alex Jewellery Pvt. Ltd. and Ors v. Rolex SA**, 2014 SCC Online Del 807. The relevant of the said judgment reads as under:

"8. It is apparent from the above provision that where a Single Judge of this court exercises ordinary original civil jurisdiction conferred by virtue of Section 5(2), an appeal would lie from a "judgment" of a Single Judge to a Division Bench of this court. In Shah Babulal Khimji (supra), the Supreme Court was concerned with the meaning of the word "judgment" as appearing in the Letters Patent for the High Court of Judicature at Bombay. The Supreme Court observed that there could be three kinds of judgments - (1) a final judgment; (2) a preliminary judgment; and (3) intermediary or interlocutory judgment. In this context the Supreme Court explained the nature and kind of each of these three categories of judgments as under : -

"In other words, a judgment can be of three kinds : -



(1) A final judgment-A judgment which decides all the questions or issues in controversy so far as the trial Judge is concerned and leaves, nothing else to be decided. This would mean that by virtue of the judgment, the suit or action brought by the plaintiff is dismissed or decreed in part or in full. Such an order passed by the trial Judge indisputably and unquestionably is a judgment within the meaning of the Letters Patent and even amounts to a decree so that an appeal would lie from such a judgment to a Division Bench.

(2) A preliminary judgment-This kind of a judgment may take two forms- (a) where the trial Judge by an order dismisses the suit without going into the merits of the suit but only on a preliminary objection raised by the defendant or the party opposing on the ground that the suit is not maintainable. Here also, as the suit is finally decided one way or the other, the order passed by the trial Judge would be a judgment finally deciding the cause so far as the trial Judge is concerned and, therefore, appealable to the larger Bench, (b) Another shape which a preliminary judgment may take is that where the trial Judge passes an order after hearing the preliminary objections raised by the defendant relating to maintainability of the suit, e.g., bar of jurisdiction, res judicata, a manifest defect in the suit, absence of notice under Sec. 80 and the like, and these objections are decided by the trial Judge against the defendant, the suit is not terminated but continues and has to be tried on merits but the order of the trial Judge rejecting the objections doubtless adversely affects a valuable right of the defendant who, if his objections are valid, is entitled to get the suit dismissed on preliminary grounds. Thus, such an order even though it keeps the suit alive, undoubtedly decides an important aspect of the trial which affects a vital right of the defendant and must, therefore, be construed to



be a judgment so as to be appealable to a larger Bench.

(3) Intermediary or interlocutory judgment-Most of the interlocutory orders which contain the quality of finality are clearly specified in clauses (a) to (w) of Order 43, Rule 1 and have already been held by us to be judgments within the meaning of the Letters Patent and therefore, appealable. There may also be interlocutory orders which are not covered by Order 43, Rule 1 but which also possess the characteristics and trappings of finality in that, the orders may adversely affect a valuable right of the party or decide an important aspect of the trial in an ancillary proceeding. Before such an order can be a judgment the adverse effect on the party concerned must be direct and immediate rather than indirect or remote.

(emphasis added)”

6. Learned counsel for the appellant submits that the present appeal filed against the impugned Order is maintainable as it impacts his rights with regard to hearing of the case on applications seeking setting aside of the abatement of suit qua the concerned defendants therein.

7. We have heard the learned counsel for the parties at length and perused the record.

8. A bare perusal of the impugned Order reveals that no rights of any of the parties have, as yet, been decided. All the applications are pending consideration and shall be heard as and when taken up.

9. At this stage, no rights of any of the parties stand affected or finally restrained. So far as discretion exercised by the learned Single Judge is concerned, it is suffice is to say that a judge is master of the



case and it lies within his/her discretion to regulate the manner in which he/she decides to take up the applications.

10. Since no prejudice is caused by first hearing the application filed under Order VII Rule 11 of the CPC first and thereafter taking up the applications seeking setting aside of abatement, we do not find any reason to interfere with the impugned Order.

11. The present appeal is, accordingly, dismissed. All the pending applications also stand disposed of.

VIVEK CHAUDHARY, J

RENU BHATNAGAR, J

JANUARY 8, 2026

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