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

\+ **RFA(COMM) 345/2024 & CM APPL. 48511-48513/2024**

AASIF ENTERPRISES .....Appellant

Through: Mr Vikram Singh, Ms Pavitra Veer Singh and Mr Shinu Gupta, Advocates.

versus

SHANKAR LAL AND SONS .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE AMIT BANSAL

O R D E R

% 23.08.2024

[Physical Hearing/Hybrid Hearing (as per request)]

CM APPL. 48512/2024

1. Allowed, subject to just exceptions.

RFA(COMM) 345/2024 & 48513/2024 ***[Application filed on behalf of the appellant seeking condonation of delay of 200 days in filing the appeal]***

2. This appeal is directed against the judgment and decree dated 22.02.2024.

3. The trial court has decreed the suit for Rs.3,05,708/-, along with interest @ 12% per annum, commencing from the date of institution of the suit till its realisation. Besides this, proportionate costs have also been awarded.

4. The record shows that the appellant/defendant had not filed written submissions, although it had participated in the cross-examination of the respondent/plaintiff i.e., PW-1.

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5. The only submission made before us by the counsel for the appellant/defendant is that the respondent/plaintiff ought to have taken recourse to Section 12A of the Commercial Courts Act, 2015 [in short "2015 Act"].

6. As noticed above, the appellant/defendant did not file a written statement in the matter.

6.1 Furthermore, the counsel who appears on behalf of the appellant/defendant, on being queried, conceded that no suggestion was made to the respondent/plaintiff i.e., PW-1 that he had not taken recourse to Section 12A of the 2015 Act.

7. Given this position, counsel for the appellant/defendant, on instructions of the appellant/defendant who is present in Court, says that he would pay the decretal amount, subject to leeway being granted with regard to the timeframe.

8. To show his *bona fide*, the appellant/defendant says that he will deposit Rs.50,000/- with the Registry of the Court within the next three (03) weeks.

9. Given the aforesaid position, issue notice to the respondent/plaintiff *via* all permissible modes, including email, limited to the issue concerning the timeframe within which the decretal amount will be deposited by the appellant/defendant.

10. The order passed today will accompany the notice to be issued to the respondent/plaintiff.

11. It is made clear that if the aforementioned amount i.e. Rs.50,000/- is not deposited within the timeframe mentioned above, the respondent/plaintiff will

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have the liberty to proceed with execution of the impugned judgment and decree.

12. List the matter on 09.12.2024.

RAJIV SHAKDHER, J

AMIT BANSAL, J

AUGUST 23, 2024*/ds*

Click here to check corrigendum, if any

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