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% 29.07.2011

Present: Mr Rajul Srivastav, Advocate, for the Appellant.
Mr P.K.Rawal and Mr Ajay Bahl, Advocates, for the Respondent.

+ **FAO(OS) 244-45/2011 & CM 9092/2011 (delay)**
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The Appeal assails the Order dated 8.7.2010 whereby the Appellant's Applications bearing I.A. Nos. 15121/2009 and 15122/2009 came to be dismissed with Costs of ₹ 25,000/-. The learned Single Judge has kept in mind the conduct of the Appellant so far as the proceedings in the Suit were concerned. The contention of learned Counsel for the Appellant is that there was gross negligence of lawyers appointed by the Appellant, who is a resident of Nagpur. Since he was not in station it was not possible for him to personally keep a track of the litigation.

In these circumstances, learned Counsel for the Appellant states that exemplary Costs may be imposed on the Appellant, but in the interest of justice the Appellant should be granted a hearing in the Court.

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We have heard Counsel for the parties and have considered the circumstances of the case. In our view imposition of Costs of ₹ 50,000/- on the Appellant for allowing the present Appeal would subserve the interest of justice. Furthermore, the Appellant is also ready to deposit a sum of ₹ 15 lacs to show his bona fide.

The Appeal is allowed. The effect is that I.A. Nos.15121/2009 and 15122/2009 are allowed. I.A. No.14006/2006 shall now be decided by the learned Single Judge on merits. The sum of ₹ 15 lacs tendered by way of two Demand Drafts in the name of Registrar Delhi High Court bearing Nos. 646124 and 646125 for the amounts of Rs 9 lacs and 6 lacs respectively are accepted. The said amount be invested in a Fixed Deposit Receipt initially for a period of 366 days, with automatic renewals thereafter. It shall be left to the discretion of the learned Single Judge how this amount has to be dealt with. As far as Costs of ₹ 50,000/- are concerned a Demand Draft bearing No.000932 in favour of Registrar, Delhi High Court has also been tendered. The Draft be encashed and the said amount of ₹ 50,000/- be disbursed to Counsel for the Respondent forthwith.

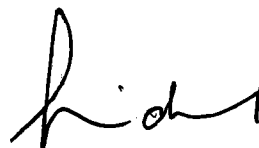
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Appeal is disposed of. Pending Application also stands disposed of.

Parties to appear before the learned Single Judge on 17th August, 2011.



VIKRAMAJIT SEN, J.



SIDDHARTH MRIDUL, J.

July 29, 2011
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