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

+ **CS(COMM) 186/2020 & I.A. No. 4705/2020**

CERVECERIA MODELO DE MEXICO, S. DE R.L. DE C.V

.....Plaintiff

Through: Mr. Shantanu Sahay with Mr. Rohan
Sharma, Advocates.

versus

WHISKIN SPIRITS PRIVATE LIMITED

.....Defendant

Through: Mr. Sanjay Bajaj, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

31.08.2020

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[Court hearing convened *via* video-conferencing on account of COVID-19]

I.A. No. 7496/2020

1. This is an application seeking exemption. There are several prayers made in the application.

2. The prayers, *inter alia*, pertain to seeking exemption from filing legible copies and duly notarised affidavits in support of the plaint and all applications filed in the suit.

2.1 Besides this, the prayer is also made by the plaintiff to file the suit papers in physical form within 15 days of the lockdown being lifted.

3. To be noted, there is, on my board today, another application i.e. I.A. No. 7495/2020, whereby the parties seek to place on record the terms of settlement arrived at between them.

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4. Thus, insofar as the first prayer is concerned, the same has, now, in practical terms, lost its efficacy. Therefore, no direction needs to be issued *qua* the same.

4.1 As regards the second prayer, for the sake of completion of record, not only the plaintiff but also the defendant will file duly notarised affidavits concerning the plaint and applications filed in the suit as well as I.A. No. 7495/2020 within 10 days of the lockdown *qua* this Court being lifted.

4.2 That leaves me with the last prayer made in the captioned application which concerns filing of suit papers in physical form. The Registry will take a call as to whether or not the suit papers have to be filed in physical form. If that is the regime being followed, a direction, in that behalf, will be issued by the Registry to the plaintiff, which will be complied by it within the timeframe given to it.

5. The application is, accordingly, disposed of in the aforesaid terms.

I.A. No. 7495/2020

6. This is a joint application filed by the parties under the provisions of Order XXIII Rule 3 Read with Section 151 of the Code of Civil Procedure, 1908 [in short “CPC”].

7. The application seeks to bring on record the terms of the settlement agreed between the parties. The terms of the settlement are set forth in paragraph 2 (i) to (v) as also in paragraphs 4, 5 and 6.

8. The application bears the signatures of the constituted attorney of the plaintiff as also the director of the defendant.

9. The application also bears the signature of counsel for the plaintiff. I am informed by Mr. Shantanu Sahay, who appears on behalf of the plaintiff, that these are signatures of Mr. Rohan Sharma, Advocate who is an associate of Mr. Sahay. Mr. Rohan Sharma, who has also joined the virtual-court hearing today, affirms this position.

9.1 It appears that, inadvertently, the signatures of counsel for the defendant i.e. Mr. Sanjay Bajaj have not been affixed on the captioned application. Mr. Sanjay Bajaj, who has also joined the virtual-court hearing today, affirms the position that the instant application has been filed by him on instructions of the defendant.

10. The captioned application is accompanied by affidavits of the authorised signatory of the plaintiff i.e. Mr. Kartikeya Rawal as also the Director of the defendant i.e. Mr. Ashok Chawla.

11. I have perused the terms of the settlement. The terms of settlement are lawful.

12. Accordingly, as prayed, the suit is decreed in terms of paragraph 34 (i) to (iii) of the plaint.

13. Since the suit has been settled at an initial stage, I am inclined to grant the prayer made for refund of the court-fee in terms of Section 16A of the Court Fees Act, 1870.

13.1 It is ordered accordingly. The Registry will take requisite steps in that behalf.

14. A decree will be drawn-up in the aforesaid terms. The application will form part of the decree and shall be marked as Exhibit- 'X'. The parties will adhere to the terms of the settlement arrived at between them.

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15. In view of the order passed today in I.A. No. 7495/2020, the suit papers shall stand consigned to record.

16. Consequently, pending application shall stand closed.

RAJIV SHAKDHER, J

AUGUST 31, 2020
C/KK

Click here to check corrigendum, if any

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