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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO (COMM) 151/2023 and CM Nos.36972/2023 & 53016/2023**

TARVINDER KHANNA Appellant
Through: Mr Basab Sengupta, proxy counsel
for Mr R.S. Kaushik, Advocate.
versus
RAKESH MIDHA AND ANR. Respondents
Through: Mr Abhishek Kumar, Mr Krishan
Kumar, Mr Sumit Kashyap and Mr
Shrish, Advocates.

CORAM:

**HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MS. JUSTICE TARA VITASTA GANJU**

O R D E R

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31.01.2024

1. The appellant has preferred the present appeal impugning the orders dated 14.07.2022, 24.05.2023 and 07.06.2022 (hereafter collectively referred as '**impugned orders**'). The impugned orders were passed in CS (COMM.) 418/2020 captioned ***Rakesh Midha v. Sidhharth Khullar***. The impugned order dated 14.07.2022 was passed under Order XVA of the Code of Civil Procedure, 1908 (hereafter '**CPC**') and the impugned order dated 24.05.2023 was passed rejecting the application filed for seeking recall of the said order.
2. The orders impugned in the present appeal are not appealable under Order XLIII Rule 1 of the CPC.
3. It is now well settled that an appeal would lie only against such orders that are enumerated under Order XLIII Rule 1 of the CPC in terms of proviso to Section 13(1A) of the Commercial Courts Act, 2015. (Ref:



Kandla Export Corporation & Anr. v. OCI Corporation & Anr.: (2018) 14 SCC 715, Odean Builders Pvt. Ltd. v. NBCC (India) Ltd: Neutral Citation No.2021: DHC:2822-DB, Prime Hi-Tech Engineering Limited v. Sahara Forage ET BTP Sarl Limited Liability Company (P) Ltd: Neutral Citation No.2023: DHC:5266-DB, Arrena Overseas Private Limited v. Batra Art Press.: Neutral Citation No.2023: DHC:7446-DB).

4. In view of the above, the appeal is not maintainable. The same is, accordingly, disposed of.
5. The amount deposited by the appellant with the Registry of this Court is forthwith directed to be returned to the appellant.
6. All pending applications are also disposed of.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

JANUARY 31, 2024
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