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

+ **RFA 99/2023**

M/S PHOENIX CONTACT INDIA LTD. Appellant

Through: **Mr. Dushyant Kumar, Advocate.**

versus

NITIN BHATIA Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE GAURANG KANTH

ORDER

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06.02.2023

The hearing has been conducted through hybrid mode (physical and virtual hearing).

C.M. No. 5781/2023 (Exemption)

1. Application is allowed, subject to all just exceptions.
2. Application stands disposed of.

RFA 99/2023, C.M. Nos. 5779/2023 (for stay), 5780/2023 (for taking on record additional evidence/documents)

3. By filing the present appeal, the appellant (original defendant) seeks to challenge the impugned judgment and decree dated 31.10.2022 passed by learned Additional District Judge-07, South-East District, Saket Courts, Delhi in Civil Suit No.75/2017 titled '*Sh. Nitin Bhatia vs. M/s. Phoenix Contact India Pvt. Ltd.*', whereby, the learned Trial Court allowed the suit for recovery filed by respondent (original plaintiff) against the appellant.



4. Learned counsel for the appellant submits that the respondent joined the services of the appellant as an 'Engineer-Purchase' vide Appointment Letter dated 18.02.2012. In due course, the respondent was promoted as Senior Engineer (Purchase). During the course of his employment, the respondent entered into an Agreement dated 10.09.2014 with the appellant. As per the said Agreement, the appellant agreed to send the respondent to Germany for training. The respondent agreed that he will not leave the appellant's Organisation for next two years after completion of the said foreign training and in case the respondent resigns before completion of two years, he will be liable to pay Rs.2,00,000/- (Rupees Two Lacs) to the appellant as liquidated damages. Accordingly, the appellant sent the respondent to Germany twice for the training purposes, i.e. first, in September, 2014 and then in September, 2015. Learned counsel for the appellant further submits that on 06.12.2015, the respondent submitted his resignation letter. The appellant informed him that he needs to pay Rs.2,00,000/- (Rupees Two Lacs) as liquidated damages in view of the Agreement dated 10.09.2014. The respondent paid Rs.2,00,000/- (Rupees Two Lacs) to the appellant but under protest. Subsequently, the respondent filed the suit for recovery against the appellant for recovery of Rs.2,00,000/- and some other amounts due to him. Learned Trial Court, vide the impugned decree, decided the said suit in favour of the respondent and against the appellant against which the present appeal has been filed.

5. Learned counsel for the appellant submits that the learned Trial Court erred in holding that the appellant has not imparted any foreign training to the respondent. Learned counsel further argues that the respondent signed the Agreement dated 10.09.2014 and was well aware of the contents of the



Agreement. Learned counsel further submits that the learned Trial Court failed to consider that after accepting the benefits arising out of the said contract, respondent cannot be allowed to wriggle out of his commitment and will be bound by the terms of the said contract.

6. This matter requires consideration.

7. On the appellant taking steps, issue notice to the respondent through all permissible modes, including electronic as well as *dasti*, returnable on 27.09.2023.

8. Subject to the appellant depositing the entire decretal amount within four weeks from today with the Registrar General of this Court, there shall be a stay of the operation of the impugned judgment and decree dated 31.10.2022.

9. In the meantime, Trial Court record shall be requisitioned.

GAURANG KANTH, J

FEBRUARY 06, 2023

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