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

+ RFA 109/2023

PRIMETIME ENTERTAINMENT AND MEDIA
PVT LTD

..... Appellant

Through: Ms. Monica Sharma, Advocate.

versus

AMAZON SELLER SERVICE PRIVATE LIMITED
(ASSPL)

..... Respondent

Through: Mr. Siddhant Grover, Advocate.

CORAM:

HON'BLE MR. JUSTICE GAURANG KANTH

ORDER

07.02.2023

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

C.M. No. 5968/2023 (Exemption)

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

RFA 109/2023 and C.M. No. 5969/2023

3. The appellant (original defendant) is aggrieved by the impugned judgment and decree dated 28.11.2022 passed by the learned Additional District Judge-04, New Delhi District, Patiala House Courts Complex, New Delhi in the case titled '*Amazon Seller Services Private Limited vs. Primetime Entertainment & Media Pvt. Ltd.*'.



4. Vide the impugned judgment, the learned Trial Court was pleased to dismiss the application filed by the appellant seeking leave to defend the suit filed by the respondent under Order XXXVII of the Code of Civil Procedure, 1908 (CPC) and hence decreed the suit filed by the respondent (original plaintiff).

5. It is the case of the appellant that the respondent (original plaintiff) operates, manages and controls its online website *www.amazon.in* which is an online market place that caters to various services to business entities, one of which is providing third party advertisement on its website. It is the case of the respondent that the appellant placed two purchase orders for a sum of Rs. 12,50,000/- and Rs.3,45,000/- excluding tax on the respondent for the display of advertisements of appellant's products. Respondent displayed the advertisements and raised the invoices on the appellant. The appellant failed to pay the said amount and hence the respondent filed a suit under Order XXXVII of CPC.

6. Learned counsel for the appellant submits that the learned Trial Court erroneously dismissed the appellant's application seeking leave to defend as the respondent filed the suit under Order XXXVII of CPC without having any written acknowledgement from the appellant. It is further submitted that the appellant never admitted its liability and hence the learned Trial Court ought to have granted leave to defend the suit.

7. This matter requires consideration.

8. Issue notice.

9. Mr.Siddhant Grover, Advocate accepts notice on behalf of the respondent. He seeks and is granted four weeks' time to file reply to the application. Rejoinder thereto, if any, be filed before the next date of



hearing.

10. Subject to the appellant depositing the entire decretal amount with the Registrar General of this Court within two weeks from today, there shall be a stay of the operation of the impugned judgment.

11. Upon depositing the said amount, the Registry is directed to keep the amount so deposited in an interest bearing FDR with an auto renewal facility.

12. List on 13.09.2023.

13. In the meanwhile, Trial Court Record shall be requisitioned.

GAURANG KANTH, J

FEBRUARY 07, 2023

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