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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RFA(COMM) 125/2025

LAKSHAY GUPTA

.....APPELLANT

Through: Mr. Vijay K. Jain, Mr. SANjeev K.
Bhardwaj and Mr. Piyush Aggarwal, Advs.

versus

GAURAV RATHI

.....RESPONDENT

Through: Counsel for the respondent.
(appearance not given)

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SAURABH BANERJEE

ORDER

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03.03.2025

CM APPL. 12713/2025 –Ex.

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

**RFA(COMM) 125/2025, CM APPL. 12714/2025 –Delay 28 days & CM
APPL. 12712/2025 –Stay.**

3. The present appeal under Section 96 of the Code of Civil Procedure, 1908 r/w Section 13 of the Commercial Courts Act, 2015 seeks to assail the judgment and decree dated 05.11.2024 passed by the learned District Judge, Commercial-01, Central District, Tis Hazari Courts, Delhi in CS (Comm) No. 1886/2022. Vide the impugned judgment dated 05.11.2024, the learned Trial Court has decreed the suit preferred by the respondent/plaintiff after taking into account that the appellant had not complied with the order dated 23.01.2024 whereunder he was granted conditional leave to defend the suit under



Order XXXVII Rule 3 (5) CPC preferred by the respondent.

4. Learned counsel for the appellant submits that the learned Trial Court has failed to appreciate that the appellant had already by way of CM(M) 2635/2024 assailed the aforesaid order whereby he had been granted only conditional leave to defend, which revision petition is still pending consideration.
5. Learned counsel for the appellant vehemently submits that since the order dated 23.01.2024 granting conditional leave to defend the suit itself recorded that the appellant had raised a substantial defence, the appellant ought not to be directed to deposit any amount as a condition for stay of the impugned judgment.
6. Issue notice. Learned counsel for the respondent accepts notice. He prays for and is granted four weeks' time to file reply to the applications. Rejoinder thereto, if any, be filed within two weeks, thereafter.
7. Having considered the submissions of learned counsel for the appellant and perused the record, we are of the view that since the order dated 23.01.2024 granting conditional leave to defend the suit, though assailed, was never stayed, the appellant ought to deposit at least the principal decretal amount as a condition for stay. Since the appellant claims to have already paid a sum of Rs. 38 lakhs to the respondent, we direct that subject to the appellant depositing a sum of Rs. 1 crore with the Registrar General of this Court, within a period of eight weeks, the operation of the impugned judgment and decree will remain stayed till the next date of hearing.
8. In the meanwhile, trial court records be requisitioned in digitized form



before the next date of hearing.

9. List on 10.07.2025.

REKHA PALLI, J

SAURABH BANERJEE, J

MARCH 3, 2025/acm