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

+ CS(OS) 592/2021, I.A. 14868/2021, I.A. 14869/2021, I.A.  
13665/2022 & I.A. 9367/2023

MS. SHEFALI KOUL

.....Plaintiff

Through: Mr. Naman Joshi, Ms. Ritika Vohra  
and Mr. Amber Tickoo, Advs.  
versus

MOHD RAFIQ MIR & ORS.

.....Defendants

Through: Mr. Susheel Tomar and Ms. Shailja  
Singh, Advs. for defendants

**CORAM:**

**HON'BLE MR. JUSTICE VIKAS MAHAJAN**

**ORDER**

% **26.07.2024**

1. The present suit has been filed under Order XXXVII CPC.
2. In the last order it has been recorded by this Court that there is a doubt on the maintainability to the present suit filed under Order XXXVII CPC.
3. The learned counsel for the plaintiff submits that the present suit has been filed to recover a liquidated demand payable by the defendants arising out of written MoU dated 26.10.2020, hence, the suit is maintainable in terms of Order XXXVII Rule 1(2)(b)(i) CPC. *Prime facie* there appears to be substance in the submission of the learned counsel.
4. He further submits that an application seeking leave to defend was filed by the defendants belatedly alongwith an application being I.A. 13666/2022 seeking condonation of delay. However, *vide* order dated 05.01.2023 the application seeking condonation of delay was dismissed for



non-prosecution.

5. Subsequently, the defendant filed I.A. 9366/2023 seeking restoration of the aforesaid I.A. 13666/2022. However, the said application i.e. I.A. 9366/2023 was also dismissed in default *vide* order dated 13.05.2024.

6. In the aforesaid circumstances he submits that there is no leave to defend application on record and the plaintiff is entitled to judgment forthwith in terms of Order XXXVII Rule 3(6)(a) CPC.

7. The learned counsel for the defendants prays for an adjournment on the ground that the arguing counsel is indisposed. At request, re-notify on 04.09.2024.

8. It is made clear that in the event of non-appearance of the counsel for the defendants on next date, the matter will be heard regardless.

9. The learned counsel for the defendants also prays for time to comply with the direction contained in order dated 16.11.2021 whereby the direction was given to the defendants to file an affidavit disclosing their assets along with their memo of appearance.

10. Let said directions be complied within four weeks.

**VIKAS MAHAJAN, J**

**JULY 26, 2024**  
**N.S. ASWAL**