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

+ RFA 657/2025

RENU CHAUDHARY

.....Appellant

Through: Ms. Agraza and Mr. Jeevak Kumar,
Advocates.

versus

M/S SIDDHARTH GARMENTS PVT. LTD.

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

O R D E R

% **12.08.2025**

CM APPL. 43165/2025 (exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed of.

RFA 657/2025, CM APPL. 43164/2025 (stay)

By way of the present regular first appeal filed under section 96 read with Order XLI of the Code of Civil Procedure 1908, the appellant impugns judgment and decree dated 16.05.2025 passed by the learned District Judge, Tis Hazari District Courts, Delhi in suit bearing No. 612873/2016.



2. Ms. Agraza, learned counsel appearing for the appellant submits, that the impugned judgment and decree is flawed *inter-alia* for the following reasons:
 - 2.1. The suit was initially filed as an ordinary suit titled *Varun Pahwa vs. Mrs. Renu Chaudhary*. Subsequently, the original plaintiff *i.e.*, Varun Pahwa was granted liberty *vide* order dated 01.03.2019 passed by the Supreme Court in SLP(C) No. 2792/2019 to amend the memo of parties in the suit to the *limited* extent of naming M/s Siddharth Garments Pvt. Ltd. (respondent) as plaintiff, since the original plaintiff Varun Pahwa had filed the suit as Director of the said company. Accordingly, the suit came to be titled as *Siddharth Garments Pvt. Ltd. vs. Mrs. Renu Chaudhary*.
 - 2.2. Learned counsel submits, that by virtue of the amendment, the suit automatically fell within the ambit of a commercial suit since it concerned a “commercial dispute” within the meaning of section 2(c) of the Commercial Courts Act, 2015; and the parties were therefore required to comply with all the procedural requirements of a commercial suit.
 - 2.3. Moreover, Ms. Agraza argues, that post the amendment, the suit ought to have been placed before a commercial court of competent territorial jurisdiction. It is pointed-out that this objection was taken by the appellant (defendant before the trial court); but ignoring the objection so taken, the learned trial court continued with the suit and proceeded only to frame an issue relating to its *territorial* jurisdiction. It is submitted that the



objection taken was not relating to the *territorial* jurisdiction of the trial court, but as regards its *subject matter* jurisdiction, which was ignored.

2.4. Ms. Agraza also points-out, that the claim in the suit admittedly arose from an alleged loan having been given by the respondent to the appellant; but the learned trial court failed to notice that in light of section 185 of the Companies Act, 2013 a company is prohibited from advancing any loan, directly or indirectly, without a special resolution being passed by the company in a general meeting alongwith other conditionalities and requirements. Admittedly, in the present case, no such special resolution was available on the record of the trial court; and accordingly the suit was not maintainable at all.

3. It is contended that despite the aforesaid lacunae, the learned trial court proceeded to decree the suit for Rs. 25 lacs alongwith interest at 12% per annum, whilst also holding the respondent (plaintiff) as entitled to *pendente-lite* interest at the rate of 6% per annum.
4. Issue notice.
5. Upon the appellant taking steps, let notice be sent to the respondent by all permissible modes, returnable for the next date.
6. Let the notice indicate that reply to CM APPL. 43164/2025 be filed within 06 weeks of service; rejoinder thereto, if any, be filed within 04 weeks thereafter; with copy to the opposing counsel.
7. No reply is required in the appeal.
8. Let trial court record be requisitioned in electronic form; and copy of TCR be supplied to counsel on request.



9. Re-notify on 04th November 2025 before the learned Joint-Registrar for completion of service; and completion of pleadings in CM APPL. 43164/2025.
10. List before court thereafter.
11. On a *prima-facie* view of the matter, and in view of the contentions raised as referred-to above, the effect and operation of the impugned judgment and decree dated 16.05.2025 shall remain *stayed*, till the next date of hearing, without requiring the appellant to deposit the decretal amount, *at this stage*.

ANUP JAIRAM BHAMBHANI, J

AUGUST 12, 2025/ak