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

+ **RFA(COMM) 66/2024 & CM Nos.11374-78/2024**

NARGESH KUMAR

..... Appellant

Through: Mr Rahul Rajpal with Mr Vivek
Shokeen and Mr Karan Choudhury,
Adv.

versus

ADS SPIRITS PRIVATE LTD

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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29.02.2024

[Physical Court Hearing/Hybrid Hearing (as per request)]

CM Appl.11375/2024

1. Allowed, subject to the appellant filing legible copies of the annexures, at least three (03) days before the next date of hearing.

CM Appl.11377/2024

2. The application is disposed of with a direction that the decree sheet will be placed on record as soon as it is received by the appellant/defendant.

RFA(COMM) 66/2024 & CM Nos.11374, 11376, 11378/2024

3. This appeal is directed against the order dated 23.08.2023 passed by the learned District Judge (Commercial Court)-03, South-West District, Dwarka Courts, New Delhi.

4. Via the impugned order, the learned District Judge has dismissed the appellant's application filed under Order IX Rule 13 read with Section 151 of the Code of Civil Procedure, 1908 [in short, "CPC"].

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5. The moot point which arises for consideration is: whether the appellant was served in the suit action on 01.03.2022?
6. The record shows that the summons bears the signatures of, one, Ms Anita, *albeit* in English.
- 6.1 The appellant says that although his wife's name is Anita, she signs in Hindi and not in English. In support of this plea, the appellant/defendant placed on record, before the trial court, the PAN Card of his wife.
7. It is noticed that there is substantive delay in filing the appeal.
8. Counsel for the appellant says that the delay in approaching the Court occurred as the appellant had to run for medical treatment of his wife who is suffering from cancer, which has reached its last stage.
9. Issue notice to the respondent/plaintiff *via* all permissible modes, including e-mail.
10. List the matter on 05.04.2024.
11. Meanwhile, the executing court will stand over the matter to a date beyond the date fixed in the instant appeal.
12. The Registry will summon the trial court record, *albeit*, in a digitized form.

RAJIV SHAKDHER, J

AMIT BANSAL, J

FEBRUARY 29, 2024 / aj
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Click here to check corrigendum, if any

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