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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 728/2018 & I.A. 15056/2016

ARUN CHOPRA

..... Plaintiff

Through: Ms. Shobhna Takiar, Advocate (M-9810962950)

versus

KAKA-KA DHABA PVT LTD & ORS

..... Defendants

Through: Mr. Hiren Kamod & Mr. Rahul Vidhani, Advocates for D-1 to 6 (m-9811545888)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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19.02.2019

Ms. Shobhna Takiar – Ld. counsel for the Plaintiff makes a with prejudice offer on behalf of her client that her client is willing to settle the entire dispute in terms of the order passed on 28th November, 2018. It is to be noted that under the Delhi High Court (Original Side) Rules, 2018 amended w.e.f. 1st November, 2018, Chapter IX, Rule 7 reads as under:

“Chapter IX Rule 7. Settlement offer with prejudice. – A proposal to settle shall be in writing and shall be with prejudice to the proposer. The proposal shall remain valid till the conclusion of the suit/petition/original proceeding unless otherwise provided.

A proposal to settle may be responded by a counter proposal in writing, which shall also be with prejudice and would remain valid till the conclusion of the suit/petition/original proceeding, unless otherwise provided.



Where a proposal/counter proposal is declined and/or refused, and the suit/petition/original proceedings results in terms less favourable than those contained in the proposal/counter proposal, the party declining and/or refusing to accept the proposal/counter proposal, notwithstanding being entitled to grant of relief, as awarded by the Court, shall however, be burdened with costs as provided in Rule 2(i) of Chapter XXIII of these Rules.

In case that suit/petition/original proceedings results in terms more favourable than those contained in the proposal/counter proposal, the party declining/refusing to accept the same shall, in addition, to the grant of reliefs, as awarded by the Court, be also entitled to full costs of the suit/petition/original proceedings.”

Ld. counsel for the Defendants wishes to seek instructions in the matter. It is made clear that since the offer has come from the Plaintiff's side, if the Defendants wish to contest the proceedings, the Court could consider directions to deposit of actual costs under Rule 7 of Chapter IX of the Delhi High Court (Original Side) Rules, 2018.

Further, the Intellectual Property Appellate Board is not yet fully functional, since the Technical Members are yet to be appointed. Considering the same, the hearing in the application under Section 124 of the Trade Marks Act, 1999, is deferred.

List on 26th April, 2019.

PRATHIBA M. SINGH, J.

FEBRUARY 19, 2019

Rahul