$~12

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

\+ CS(OS) 936/2015

M/S HERO MOTOCORP LTD ..... Plaintiff

Through Mr.Sudhir Kumar, Advocater.

versus

M/S DENA BANK & ORS ..... Defendants

Through Mr.Siddharth Pandey, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

O R D E R

% 31.07.2017

I.A.No.3152/2017

Learned counsel for the parties state that the present application has already been disposed of vide order dated 17th March, 2017.

Consequently, the Registry is directed not to show the present application as pending in the cause list.

CS(OS) No.936/2015

With consent of the parties, the following issues are framed:-

1. Whether the plaintiff is entitled to a decree for the sum of Rs.27,72,08,409.22/- (Rupees twenty seven crore seventy two lac eight thousand four hundred nine and twenty two paise only) towards the legal and genuine investments of Rs.25,00,00,000/- (Rupees twenty five crore only) made through 5 FDRs/SDRs with the defendant no.2 Branch of the defendant no.1 Bank? OPP

2. If yes, at what rate of interest and from when? OPP
3. Whether the plaintiff is entitled to the costs of the present suit? OPP
4. Whether the plaintiff is disentitled for any relief of recovery for having already obtained overdraft facility of Rs.21,43,00,000/- (Rupees twenty one crore and forty three lac only) against the 5 FDRs/SDRs worth Rs.25,00,00,000/- (Rupees twenty five crore only) by way of alleged Demand Loan Account and Current Account with the defendant no.2 Branch of defendant no.1 Bank? OPD
5. Whether the KYC documents on the basis of which the alleged overdraft facility of Rs.21,43,00,000/- (Rupees twenty one crore and forty three lac only) alleged to have been availed by the plaintiff company against the 5 FDRs/SDRs of Rs.25,00,00,000/- (Rupees twenty five crore only) through the alleged Demand Loan Account and Current Account with the defendant no.2 Branch of defendant no.1 Bank, are not forged and are not an act of fraud and fabrication committed by the Chief Manager of defendant no.2 Branch and his accomplices and are based on legal and valid documents of the plaintiff company? OPD
6. Whether the defendants adhered and followed all the mandatory guidelines and collected requisite valid and legal KYC documents for opening the alleged Demand Loan Account and Current Account showing the alleged overdraft facility of Rs. 21,43,00,000/- (Rupees twenty one crore and

forty three lac only) in the name of the plaintiff company? OPD

7. Whether the suit has not been signed, verified or instituted by a duly competent or authorised person of the plaintiff company and hence is liable to be dismissed? OPD

8. Whether this Court has no territorial jurisdiction to entertain, try or dispose of the present suit, as no cause of action has arisen in Delhi? OPD

9. Whether the plaintiff is guilty of negligence/contributory negligence in the fraud played on the bank? OPD

10. Whether the suit is bad for non-joinder of necessary parties? OPD

11. Whether the plaintiff has approached this Court with clean hands? OPD

12. Whether the plaintiff is at the most entitled to the balance amounts against the SDRs in question? OPD

13. Relief.

The plaintiff is directed to file a list of witnesses along with the evidence by way of affidavit within a period of four weeks.

With consent of parties, Mr. Vijay Krishan Makhija, Senior Advocate, Contact No.26312160 is appointed to record the evidence.

The fee of Mr. Vijay Krishan Makhija is fixed at Rs.2,00,000/- which shall initially be paid by the plaintiff, subject to final orders to be passed while passing the decree.

Parties are directed to appear before Mr. Vijay Krishan Makhija on 11th September, 2017 at 3.00 P.M.

List the matter before Court for monitoring the evidence on 15th December, 2017.

Registry is directed to send the file at the residence/office of Mr. Vijay Krishan Makhija.

MANMOHAN, J

JULY 31, 2017
KA