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ITEM NO.30

COURT NO.9

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).7848/2013

(From the judgement and order dated 01/11/2012 in RFA No.77/2012 of the
HIGH COURT OF DELHI AT NEW DELHI)

DELHI STOCK EXCHANGE ASSOCIATION LTD. Petitioner(s)

VERSUS

DECOR INDIA PVT. LTD. Respondent(s)

(With prayer for interim relief)

Date: 01/03/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Ms. Prerna Mehta,Adv.

For Respondent(s) Mr. Akhil Sibal,Adv.
Ms. Vidhi Goel,Adv.
Mr. Umesh Kumar Khaitan,Adv.

UPON hearing counsel the Court made the following
O R D E R

Whether a suit is barred by limitation, is a mixed question of law and fact. The learned Single Judge, it appears, had in an application filed under Order 7 Rule 11 of the CPC found that the suit was time barred and accordingly dismissed the suit. In an appeal filed against that order, the Division Bench of the High Court has reversed that view and left the question open to be determined afresh after evidence is adduced by both the parties.

Having heard the matter at some length, we see no reason to find fault with the view expressed by the Division Bench since the question as to whether the suit is barred by limitation remains at large to be determined at the final stage after the parties have adduced their evidence.

Learned counsel for the petitioner, however, submitted that even when the question of limitation has been left open, certain observations made in the impugned judgment are likely to prejudice the petitioner in the determination of that question after the parties lead their evidence.

We make it clear that while deciding the question of limitation afresh, the Trial Court shall remain uninfluenced by any observation made by the Single Judge or the Division Bench of the High Court in the impugned order.

This special leave petition is disposed of with the above-mentioned observations.

(A.S. BISHT)
COURT MASTER

(VEENA KHERA)
COURT MASTER