

Bhavana Bhatia vs. uday Viri

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Court : Delhi

Decided On : Jan-30-2019

Appellant : Bhavana Bhatia

Respondent : Uday Viri

Judgement :

\$~44 * IN THE HIGH COURT OF DELHI AT NEW DELHI % + Date of Order:

30. 01.2019 F.A.O.No.567/2018 & C.M. Nos.53022/2018, 3801/2019, 4440/2019 BHAVANA BHATIA Appellant UDAY VIRI Through: Mr. Nishant Kumar & Pradeep Dhingra, Advocates. VersusRespondent Through: Mr. Sandeep Jha, Mr. Prashant Singh & Ms. Divya Yadav, Advocates. CORAM: HON'BLE MR. JUSTICE VINOD GOEL1 With the consent of the learned counsel for the parties, the appeal is taken up for hearing. The impugned order dated 04.10.2018 passed by the court of learned Additional District Judge-03, New Delhi, Patialia House Courts, New Delhi (ADJ), in Civil Suit No.609/2018, by which the appellant/defendant on application of the respondent/plaintiff under Order 39 Rule 10 read with Section 151 CPC was directed to make the payment of the admitted amount, is the subject-matter of challenge in this appeal. FAO No.567/2018 Page 1 of 3 2. On 17.12.2018, the learned counsel for the appellant submitted that he is ready to deposit 100 per cent of the amount as directed by the learned ADJ vide impugned order dated 04.10.2018 and this court directed issuance of notice to the respondent subject to the appellant/defendant depositing the amount in terms of the impugned order with the Registry of this court. On 21.12.2018, this court has

stayed the Execution Petition No.689/2018 since the appellant has deposited the arrears in terms of the impugned order dated 04.10.2018. The only prayer in the appeal is that the impugned order dated 04.10.2018 may be modified in such a manner that 50 per cent of the amount may be kept in an FDR till the final adjudication of the suit by the learned ADJ.

3. Learned counsel for the respondent/plaintiff has no objection in case 50 per cent of the amount deposited by the appellant is kept in an FDR and rest of the amount is released to her. Learned counsel for the appellant also submits that the release may be affected subject to some security.

4. In the circumstances, the appeal is disposed of with the direction that the amount deposited by the appellant, that is, Rs.18,56,790/- be transmitted to the trial court. The trial court shall keep 50 per cent of the amount so deposited in a fixed deposit receipt till the final adjudication of the suit and the balance 50 per cent may be released to the respondent/plaintiff subject to filing an undertaking that in case the respondent succeeds, she will refund the amount to the FAO No.567/2018 Page 2 of 3 appellant/defendant. Pending applications, being C.M. Nos.53022/2018, 3801/2019 and 4440/2019, stand disposed of accordingly. The date fixed earlier in the matter, that is, 22.04.2019, stands cancelled. JANUARY30 2019 AA (VINOD GOEL) JUDGE FAO No.567/2018 Page 3 of 3

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