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

% *Date of Decision: 8<sup>th</sup> December, 2020*

+ FAO(OS) (COMM) 163/2020

INDO SWISS CHEMICALS LTD AND ANOTHER..... Appellants

versus

WILLOWOOD CHEMICALS PVT. LTD. .... Respondent

+ FAO(OS) (COMM) 164/2020

SMITH N SMITH CHEMICALS LTD. AND ANOTHER  
..... Appellants

versus

WILLOWOOD CHEMICALS PVT. LTD. .... Respondent

+ FAO(OS) (COMM) 165/2020

SAFEX CHEMICALS INDIA LTD ..... Appellant

versus

WILLOWOOD CHEMICALS PVT LTD ..... Respondent

**Present:** Mr. Sanjeev Sindhvani, Sr. Advocate with Mr. Anirudh Bakhru, Mr. S.K. Bansal & Mr. Ajay Amitabh Suman, Advs. for the appellants  
Mr. Hemant Singh & Ms. Mamta Jha, Advs. for the respondents

**CORAM:**  
**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE PRATEEK JALAN**

## **JUDGMENT**

: **D. N. PATEL, Chief Justice (Oral)**

Proceedings in the matter have been conducted through video conferencing.

**CM APPL.31284/2020 (exemption) in FAO(OS) (COMM) 163/2020**

**CM APPL.31287/2020 (exemption) in FAO(OS) (COMM) 164/2020**

**CM APPL.31290/2020 (exemption) in FAO(OS) (COMM) 165/2020**

Exemption allowed, subject to all just exceptions.

The applications stand disposed of.

**FAO(OS) (COMM) 163/2020 & CM APPLs.31282/2020 (stay) & 31283/2020 (Summoning of electronic record)**

**FAO(OS) (COMM) 164/2020 & CM APPLs.31285/2020 (stay) & 31286/2020 (Summoning of electronic record)**

**FAO(OS) (COMM) 165/2020 & CM APPLs.31288/2020 (stay) & 31289/2020 (Summoning of electronic record)**

1. These appeals have been preferred by the original defendants in CS(COMM) Nos.474/2020, 475/2020 and 476/2020. The learned Single Judge has passed the impugned order dated 23<sup>rd</sup> October, 2020 in the interlocutory applications preferred by the original plaintiff under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908. It further appears from the facts of the case, and as submitted by the learned counsel for both the sides, that applications under Order XXXIX Rule 4 CPC have already been preferred by the present appellants (original defendants) in the aforesaid suits which are coming up for further hearing on 16<sup>th</sup> December, 2020.

2. Much has been argued out by the learned counsel for appellants about the by-passing of the caveat applications preferred by these appellants (original defendants), suppression of facts and suppression/ violation of practice directions issued by this Court as pointed out at page No.132 and 133 of the memo of FAO(OS)(COMM) 165 of 2020. Other such points have also been canvassed by the learned counsel for the present appellants.

3. As the applications preferred in all the aforesaid suits under Order XXXIX Rule 4 CPC are already pending and coming up for further hearing on 16<sup>th</sup> December, 2020, we are not interfering with the order dated 23<sup>rd</sup> October, 2020 passed by the learned Single Judge in all the aforesaid suits. The original plaintiffs in all the three suits are permitted to file replies to the said applications before the learned Single Judge, before 16<sup>th</sup> December, 2020, if they so desire, and copy thereof be given to the appellants (original defendants) in all the three suits. It is submitted by the learned counsel for the respondents herein that they will cooperate before the learned Single Judge and they will not ask for any unnecessary adjournments. In view of these submissions, we are not going into the merits of the case and dealing with the arguments raised by the appellants (original defendants).

4. With these observations, these appeals are disposed of. Pending applications are also disposed of.

**CHIEF JUSTICE**

**DECEMBER 8, 2020/ns**

**PRATEEK JALAN, J**