

(2022) 02 DEL CK 0109

In the Delhi High Court

Case No : First Appeal From Order (OS) (COMM) No. 33, 34 Of 2022

Tata Sia Airlines Limited

APPELLANT

Vs

Frankfinn Aviation Services (Pvt.) Ltd

RESPONDENT

Date of Decision : 09-02-2022

Acts Referred:

Code Of Civil Procedure, 1908 — Order 39 Rule 1, Order 39 Rule 2, Order 39 Rule 2A, Order 39 Rule 4

Citation : (2022) 02 DEL CK 0109

Hon'ble Judges : Rajiv Shakdher, J; Talwant Singh, J

Bench : Division Bench

Advocate : Akhil Sibal, Kruttika Vijay, C.M. Lall, Kapil Midha

Judgement

Rajiv Shakdher, J

CM APPL. 7299/2022 in FAO(OS) (COMM) 33/2022

CM APPL. 7302/2022 in FAO(OS) (COMM) 34/2022

1. Allowed, subject to just exceptions.

FAO(OS) (COMM) 33/2022 and CM APPLs. 7297-98/2022

FAO(OS) (COMM) 34/2022 and CM APPL. 7300-01/2022

2. Inter alia, the above-captioned appeals are directed against the common order dated 02.02.2022, passed by the learned single judge in the

appellant's application, preferred under Order XXXIX Rule 4 of the Code of Civil Procedure Code, 1908 (in short 'CPC') i.e., I.A.

1670/2022, and in respondent's application, filed under Order XXXIX Rule 2A of CPC i.e., I.A. 1795/2022. Both the applications have been

preferred in a suit filed by the respondent i.e., CS(COMM) 54/2022.

2.1. Via the impugned order, the learned single judge has issued notice in the

aforementioned interlocutory applications and given opportunity to the contesting side to file a reply. The applications have been listed by the learned single judge, on 07.03.2022.

3. Given the foregoing, counsels for the parties are agreed that the above-captioned appeals can be disposed of with the following directions:

(i) The respondent will file a reply to the appellant's application preferred under Order XXXIX Rule 4 of CPC i.e., I.A. No.1670/2022, within ten

days from today. Rejoinder thereto, if any, will be filed by the appellant, within one week of the reply being served.

(ii) The appellant will file a reply to the respondent's application preferred under Order XXXIX Rule 2A of CPC i.e., I.A. No.1795/2022, within

ten days from today. Rejoinder thereto, if any, will be filed by the respondent, within one week of the reply being served.

(iii) The appellant's application i.e., I.A. No.1670/2022, and I.A. No.1188/2022, which is filed by the respondent under Order XXXIX Rules 1 and

2 of CPC, will be taken up by the learned single judge, in the first instance, on the date already fixed i.e., 07.03.2022, and if, for any reason, it is not

possible to take up these applications on the said date, the same will be taken up on a date which is proximate to the given date.

(iiia) Once the learned single judge has taken a view qua the aforementioned applications, he will, then, deal with the respondent's application i.e.,

I.A. No.1795/2022, which has been filed, as noticed above, under Order XXXIX Rule 2A of CPC.

3.1. It is ordered accordingly.

4. It is made clear that nothing stated hereinabove will impact the decision in any of the applications, referred to hereinabove, which are pending

consideration before the learned single judge.

5. Consequently, pending applications shall stand closed.