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

**(ORIGINAL COMMERCIAL JURISDICTION)**

**CODE NO. 50000 and 50000.04**

**CS(COMM) NO. \_\_\_\_\_\_\_\_ OF 2024**

**IN THE MATTER OF:**

<Appellants’ Names> …Plaintiffs

Versus

<Respondents’ Names> …Defendants

**APPLICATION UNDER SECTION 151 OF THE CODE OF CIVIL PROCEDURE, 1908 SEEKING SEEKING PERMISSION TO FILE ELECTRONICALLY SIGNED AND NOTARISED AFFIDAVITS AND VAKALATNAMA**

The Appellant above named most respectfully submits as under:

1. The Appellant has preferred the present appeal against the order dated 28.10.2023 passed by Respondent No. 1 (**“the Impugned Order”**). The Appellant craves leave to refer and reply upon the contents of the memorandum of appeal and the same are not repeated for the sake of brevity.
2. That because of certain pressing commitments of the Appellant’s authorised representative (the Deponent herein) who resides in the United States of America, he/her is unable to immediately visit the Indian embassy / consulate for apostillation of the Affidavits, which is a relatively time-consuming process. However, for facilitating the timely filing of the present appeal, the Appellant’s authorised representative virtually appeared before a qualified Notary officer (in Delhi) and the Affidavits along with the Vakalatnama of the Appellant’s authorised representative have been electronically signed and notarised in support of instant appeal, thereby complying with the mandate of the rules and procedures. The signing and notarisation process adopted / followed for signing and notarising the Affidavits is elaborated hereinbelow:-
3. The Deponent uploaded a PDF of his/her ID document (Passport) and then a PDF of the Affidavits on the online notarisation platform “NotarEase”. A member of the NotarEase team conducted a KYC of the Deponent by verifying the ID document against the original on a video call. Once the KYC was done, the Appellant’s counsel then booked an online appointment with the Notary.
4. The Notary and Deponent joined a video conferencing call.
5. The Affidavits were visible on the platform “NotarEase” simultaneously to both the Deponent and the Notary.
6. The Notary verified the identity of the Deponent by comparing the details on the uploaded ID Document shown by the Deponent in the video call.
7. Once the identity of the Deponent was confirmed, the Notary initiated the e-signature process, which took place through eMudhra. The Deponent respectfully submits that eMudhra is a Certifying Authority, licensed by the Controller of Certifying Authorities (appointed by the Government of India u/s 17 of the Information Technology Act, 2000). Certifying Authorities are authorised to issue electronic signature Certificates under the scheme of the Information Technology Act, 2000 including Section 35 thereof. The legal recognition of electronic signatures is provided u/s 5 of the 2000 Act. For ready reference, Section 5 of the 2000 Act is reproduced as under:-

“***5. Legal recognition of electronic signatures –***

*Where any law provides that information or any other matter shall be authenticated by affixing the signature or any document shall be signed or bear the signature of any person, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied, if such information or matter is authenticated by means of electronic signature affixed in such manner as may be prescribed by the Central Government.*

*Explanation. – For the purposes of this section, ‘signed’, with its grammatical variations and cognate expressions, shall, with reference to a person, mean affixing of his hand written signature or any mark on any document and the expression ‘signature’ shall be construed accordingly.*”

1. The Affidavits were stamped with the Notary’s details.
2. The Deponent e-signed the Affidavits using eMudhra.
3. The Notary then e-signed the Affidavits on eMudhra as well.
4. That similarly, the supporting Affidavit with the instant Application and the Vakalatnama have also been electronically signed and notarised. Screenshots from the video call along with a copy of the certificate issued by eMudhra, evidencing the procedure adopted, have been reproduced hereinunder:

**\*DOCUMENTS AND SCREENSHOTS\***

1. It is most humbly submitted that the process followed by the Appellant’s authorised representative as mentioned and demonstrated hereinabove, is in conformity with the rules and procedures for swearing of affidavits before a Notary. It is respectfully submitted that permitting such electronic / virtual procedure for swearing of affidavits would be in furtherance of the steps taken by this Hon’ble Court towards expanding and facilitating the advancement in technology for overcoming delays, simplifying and rationalising the procedures. It deserves acceptance by the orders of this Hon’ble Court.
2. It must be noted that in the electronically signed Affidavits, upon any kind of modification (such as insertion of page numbering or merging as part of another PDF etc.), the electronic signature may or may not continue to appear on the page as it gets invalidated. Therefore, the original electronically signed Affidavits are being retained by the counsel for the Appellant and can be demonstrated to the Hon’ble Court in the event so required for the same reason.
3. In view of the above, the present Application is being filed seeking permission of this Hon’ble Court to file the electronically signed and notarised Affidavits on behalf of the Appellant’s authorised representative herein.
4. That the instant Application is being made *bona-fide* and in the interest of justice and no prejudice will be caused if the present Application is allowed; however severe prejudice will result if it is disallowed.

**PRAYER**

1. In view of the facts and circumstances, as stated hereinabove, it is most respectfully prayed that this Hon’ble Court may kindly be pleased to:
2. Allow this Application, thereby permitting the Appellant’s authorised representative to file electronically signed and notarised affidavits filed along with the present appeal, the Vakalatnama, as well as the affidavit with this instant Application;
3. Exempt the Appellant’s authorised representative from filing physically signed affidavits, along with the present appeal, the Vakalatnama, as well as the affidavit with this instant Application; and
4. Pass such other order(s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS THE APPLICANT AS IN DUTY BOUND SHALL EVER PRAY.

**Through,**

**<Advocates name and details>**

Place: \_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_