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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 186/2016

LIVING MEDIA INDIA LIMITED

..... Petitioner

Through Mr.Sajad Sultan, Advocate.

versus

JITENDER V JAIN & ORS

..... Respondents

Through Nemo.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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23.02.2016

C.M. No.6738/2016 (exemption)

C.M. No.6739/2016 (exemption)

Exemption is allowed subject to just exceptions. Applications disposed of.

CM(M) 186/2016 & C.M. No.6737/2016 (stay)

Petitioner is aggrieved by the impugned order dated 23.11.2015 vide which his right to lead evidence was closed. The petitioner before the Trial Court is plaintiff. Present suit is a suit for permanent injunction and infringement of trademark.

Learned counsel for the petitioner submits that there are two witnesses. PW-1 had been examined in-chief and he has also been partly cross-examined. Attention has been drawn to the order dated 30.01.2015 wherein it was recorded that PW-1 was partly cross-examined. Learned

counsel for the petitioner submits that on that day the matter was thereafter adjourned. This Court has been informed that on the next date (16.3.2015) the lawyers were on strike. The suit of the plaintiff was dismissed in default on 20.5.2015 and final submission of the learned counsel for the petitioner is that when his evidence was closed counsel for the plaintiff was out of station; boarding passes substantiating this submission are a part of the record. Submission being that only one opportunity be granted to the petitioner to complete his evidence. It is further pointed out that apart from PW-1 (already under cross-examination) there is one more witness who is to be examined. He would be official from the office of the Registrar of Trademarks. These facts are noted and taken on record. Subject to payment of Rs.15,000/- as costs the impugned order is set aside and the petitioner (plaintiff in the Trial Court) is granted one more opportunity to lead his evidence. PW-1 shall be produced in the Trial Court on the next date i.e. 23.3.2016. Notice of this order shall be given by the learned counsel for the petitioner to the learned counsel for the respondent who shall be prepared to cross-examine PW-1 on the next date. The Trial Court may in its discretion grant a date for summoning of the second witness on behalf of the petitioner/plaintiff.

With these directions, petition disposed of.

INDERMEET KAUR, J

FEBRUARY 23, 2016

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