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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 261/2016**
RAJENDER KUMAR GOEL

..... Petitioner

Through Mr. Vikas Mehta and Mr. Karandeep
Khanna, Advs.

versus

M/S JAGSON COLORCHEM LIMITED

..... Respondent

Through None.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **16.03.2016**

C.M. No.9596/2016 & C.M. No.9597/2016

Exemption is allowed subject to all just exceptions.

Applications disposed of.

CM(M) 261/2016

The petitioner is aggrieved by the order dated 28.07.2014 vide which the evidence of the plaintiff stood closed; he is also aggrieved by the subsequent order dated 03.12.2015 vide which application seeking recall of the order dated 28.07.2014 had been declined. Learned counsel for the petitioner submits that he had tendered his affidavit by way of evidence on 13.07.2012. Thereafter on all subsequent dates i.e. on 17.11.2012, 01.02.2013, 03.04.2013, 28.05.2013, 31.08.2013 as also on 21.02.2014, adjournments were sought by the defendant and the plaintiff was all along present on these dates for his cross-examination but for the reason that the

defendant was seeking an adjournment, the matter had stood adjourned. On the date when the first impugned order was passed i.e. on 28.07.2014, record shows that PW-1 was not present; his son had come in the Court with the medical prescription; submission of the learned counsel for the petitioner is that PW-1 had suffered an accident in an attack which had taken place upon him just 2-3 days earlier and as such he could not be present on that date for his cross-examination on which date the Trial Court had closed the evidence of the plaintiff. He had forthwith i.e. in August, 2014 filed an application seeking recall of that order but that was also not considered sympathetically and dismissed by the second impugned order. Record substantiates all these submission made by the learned counsel for the petitioner.

A valuable right of the plaintiff would be lost in case PW-1 is not permitted to be cross-examined. Next date fixed before the Trial Court is 20.05.2016. Learned counsel for the petitioner undertakes that PW-1 will be present in Court on the next date in order that the defendant can cross-examine PW-1. A copy of this order be given dasti under signature of the Court Master to the learned counsel for the petitioner who undertakes to inform the counsel for the defendant in order that he will be prepared for cross-examination of PW-1. This order is passed subject to payment of costs of Rs.5,000/-.

Petition disposed of.

INDERMEET KAUR, J

MARCH 16, 2016

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