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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 444/2016**
SARL ENTERPRISES

..... Petitioner

Through Mr.Lovenish Mendiratha, Advocate.

versus

INTEX ENTERPRISES PVT LTD AND ANR

..... Respondents

Through Nemo.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **09.05.2016**

C.M. No.17260/2016 (exemption)

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

CM(M) 444/2016 & C.M. No.17259/2016 (stay)

Petitioner is aggrieved by the order dated 01.4.2016 vide which the defence of the petitioner (defendant no.3 in the Trial Court) had been struck off and he had been proceeded ex parte. Petitioner is aggrieved by that finding.

Record shows that the present suit is a suit for infringement of trademark, permanent injunction, passing off and rendition of accounts etc. Petitioner before the Trial Court was defendant no.3. He had been served for 18.01.2016 on which date the plaint along with documents has been furnished to him. He thereafter moved an

application marking a request for the report of the local commissioner as also other documents. This was noted in the order dated 15.02.2016 of which notice was ordered for 01.4.2016. The written statement had been filed on 29.3.2016 which was after a delay of about 40 days if counted up to 30 days. Counsel for the petitioner submits that in fact the report of the local commissioner has not been provided to him till the time when he had filed his written statement i.e. on 29.3.2016. wherein he had made a submission that an amended written statement may be permitted to be filed by him after the report of the local commissioner had been received. Submission being that the delay in filing the written statement was clearly for the reason that the petitioner (defendant no.3) was awaiting the report of the local commissioner and in fact the application to the said effect was already filed before the Trial Court for which notice had also been issued; the report of the local commissioner has not yet been supplied. Submission being reiterated that a valuable right would be lost in case the petitioner (defendant no.3) is not permitted to plead his defence. In view of the above factual matrix, subject to payment of Rs.10,000/- as costs, the written statement already filed by the petitioner (defendant no.3) be taken on record.

Petition disposed of.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

MAY 09, 2016/ndn