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

+ CM(M) 755/2016

MTECH SOLUTIONS Petitioner
Through Ms. Kanika Mittal, Advocate.

versus

NEERAJ MITTAL & ANR Respondents
Through None.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
% **08.08.2016**

CM No. 28331-32/2016 (exemption)

Exemption is allowed subject to all just exceptions.

CM(M) 755/2016 and CM No. 28330/2016 (stay)

1. By the present petition, the petitioner seeks to impugn the judgment dated 02.07.2016 by which judgment the application filed by the petitioner under Order 7 Rule 14 CPC for production of additional documents was dismissed.
2. The plaintiff has filed the present suit for damages, mandatory injunction and permanent injunction. A decree of Rs.31,52,300/- is claimed.
3. The trial court relying upon Order 7 Rule 14 CPC and the judgment of this court in the case *Gold Rock World Trade Ltd. vs. Veejay Lakshmi Engineering Works Ltd.*, MANU/DE/8444/2007 held that before leave of the court can be granted for receiving documents in evidence at a belated

stage, the party seeking to produce the documents must satisfy the court that the said documents were earlier not within the party's knowledge or could not be produced at the appropriate time in spite of due diligence. The trial court based on this judgment noted that in the present case, the plaintiff's evidence was closed on 05.04.2016 and final arguments were heard and now the present application has been moved without disclosing any plausible reason to justify leading of additional evidence at that stage. The application was hence dismissed.

4. Learned counsel appearing for the petitioner relies upon the application filed under Order 7 Rule 14 CPC to contend that these documents had been supplied by the plaintiff/petitioner to their counsel but inadvertently, the counsel did not file the same. This fact came to the notice of the plaintiff during arguments of the last stage. He further submits that no prejudice would be caused to the respondents as the matter is being proceeded ex parte.

5. A perusal of the application under Order 7 Rule 14 CPC filed by the petitioner shows that the explanation which is stated by the learned counsel for the petitioner is reproduced in the said application. This application is supported by an affidavit of Special Power of Attorney of the plaintiff confirming the said explanation. There is no rebuttal or denial of this averment made by the petitioner in the said application on oath. Hence, it would be incorrect to conclude that the petitioner has failed to disclose a plausible reason to explain that despite due diligence, the said documents were not placed on record.

6. Even otherwise, the respondents are ex parte. No prejudice would be caused to the respondents in case the said documents are permitted to be

taken on record. Of course, the petitioner has wasted the time of the court by delaying the filing of the documents.

7. Keeping in view the above position, the impugned order dated 02.07.2016 is set aside. The application filed by the petitioner under Order 7 Rule 14 is allowed subject to costs of Rs. 10,000/- payable to the Delhi State Legal Services Authority. The cost will be paid within two weeks from today and the proof of having paid the cost shall be filed before the trial court.

8. With these directions, the petition stands disposed of.

Dasti.

JAYANT NATH, J

AUGUST 08, 2016

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