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

+ **FAO 114/2015 & CM No.7173/2015, 11865/2015 & 11866/2015**

MANOJ BAJAJ & ANR Appellants
Through: Mr. J.P. Sengh, Sr. Adv. with Mr.
Sumit Rajput, Ms. Manisha Mehta
and Ms. Sania Malik, Advs.
versus

THE POLO/LAUREN COMPANY L P Respondent
Through: Mr. S.K. Bansal and Mr. Ajay
Amitabh Suman, Advs.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

% **ORDER**
03.11.2016

1. The appellants have challenged the order dated 20th February, 2015 whereby the learned Trial Court has restrained the appellant from passing of his goods i.e. luggage products/bags etc., using the combination i.e. word “POLO” and prefixed or suffixed with some other word “AND” used with the peculiar device in which a rider is playing polo.
2. The respondent has filed cross objections to challenge the observations made by the learned Trial Court to the effect that the word “POLO” is not distinctive word and the respondent cannot claim exclusive right even if the word “POLO” is used with some other word.
3. After some hearing, this Court is of the view that it would be appropriate to remand this matter back to the learned Trial Court to consider the contentions of the parties urged before this Court and pass a fresh order. The impugned order shall continue till the fresh order is passed.
4. Learned counsels for both the parties submit on instructions that the suggestion of this Court is fair and reasonable.

5. In the facts and circumstances, the matter is remanded back to the Trial Court for fresh hearing. The parties shall appear before the Trial Court on 05th December, 2016 when the Trial Court shall fix a date for hearing the matter. Both the parties shall place the contentions urged before this Court in the appeal as well as cross objections, before the Trial Court before the date of hearing. The Trial Court shall hear the matter afresh and consider the contentions urged by both the parties in this appeal and the cross objections and, thereafter, pass a fresh order uninfluenced by any observations made in the impugned order. The impugned order dated 20th February, 2015 shall continue till the date of passing of the fresh order. The Trial Court shall endeavour to pass a fresh order within a period of four months from today. Since the matter is being remanded back, the showcause notice dated 20th April, 2015 under Section 209 IPC is withdrawn. However, the Trial Court shall consider Section 209 IPC at the time of final hearing of the suit after recording of the evidence.

6. The appeal and all pending applications are disposed of on the above terms.

7. The Trial Court record be returned back forthwith.

8. Copy of this order be given *dasti* to learned counsels for the parties under signature of Court Master.

J.R. MIDHA, J.

NOVEMBER 03, 2016

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