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

+ RFA(OS) 79/2016

OLX INDIA PVT LTD Appellant
Represented by: Mr.Abhinay, Advocate

versus

TRIUMPHANT INSTITUTE OF MANAGEMENT
EDUCATION PVT LTD AND ANR Respondents
Represented by: Mr.Robin Kootwal, Advocate
with Ms.Namrita Kochhar,
Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **05.10.2016**

CM No.37307/2016

Allowed subject to just exceptions.

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1. Notice.
2. Counsel as above accepts notice on behalf of respondent No.1 : plaintiff.
3. Learned counsel for the respondent No.1 concedes that in view of the pleadings in the plaint and keeping in view the averments against the appellant (impleaded as defendant No.4 in the suit), relief which could be granted was in terms of prayer 'C' and not prayers 'A' and 'B'. The reason

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being defendant No.4 being intermediary as per Section 79 of the Information Technology Act, 2000.

4. In that view of the matter the appeal is disposed of at the admission stage itself modifying the impugned decree and decreeing suit against appellant in terms of prayer 'C' in the plaint, and simultaneously recording that it is the case of the appellant that after the infringing activity complained off was brought to its notice it removed the offending material posted on its website by defendant No.1

5. No costs.

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Since the appeal is disposed of at the admission stage itself instant application which seeks stay of the impugned decree qua prayers 'A' and 'B' in the plaint is disposed of as infructuous

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

OCTOBER 05, 2016
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