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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) No.517/2017, CM No.17488/2017 (for stay) & CM No.17489/2017 (under Section 151 CPC).

KHUSHI RAM BEHARI LAL

..... Petitioner

Through: Mr. Sanjeev Sindhwani, Sr. Adv. with
Mr. S.K. Bansal, Mr. Ajay Amitabh
Suman, Rahul Shamra and Mr. Kapil
Giri, Advs.

versus

P K OVERSEAS PVT LTD

..... Respondent

Through: Mr. Akhil Sibal, Sr. Adv. with Mr.
Akhil Sachar, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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20.07.2017

1. This petition under Article 227 of the Constitution of India impugns the order dated (6th March, 2017 of the Court of the Additional District Judge-10 (Central), Tis Hazari Courts, Delhi in TM No.48/12 (974/16) taking on record and admitting into evidence certain documents deposited by the witness DW1 of the respondent / defendant in the course of his cross-examination by the petitioner / plaintiff.
2. The senior counsel for the respondent / defendant appeared on caveat.
3. The counsels have been heard.
4. What has emerged is that (i) the suit from which this petition arises has been filed by the petitioner / plaintiff against the respondent / defendant for reliefs of injunction and damages etc. on the ground of the respondent / defendant passing off its goods namely rice as that of the petitioner / plaintiff by adopting the device of 'TAJ MAHAL'; (ii) the interim order

sought by the petitioner / plaintiff was denied to the petitioner / plaintiff and against which the petitioner / plaintiff came up before this Court in appeal; (iii) the said appeal was disposed of by directing the trial to be completed within six months; (iv) the trial has now been completed and the suit posted for final arguments on 22nd July, 2017; and, (v) during the cross-examination by the petitioner / plaintiff of DW1 on 6th March, 2017, DW1 in response to one of the questions made a voluntary statement also referring to the documents in the file which had been summoned by the respondent / defendant on that date and the learned Additional District Judge has overruled the objection of the petitioner / plaintiff to the taking on record and admissibility of the said documents and allowed the said documents to be tendered as Ex.DW1/P8 collectively.

9. It is the contention of the senior counsel for the petitioner / plaintiff that the learned Additional District Judge has erred in taking the said documents on record and admitting the same into evidence and in overruling the objection of the petitioner / plaintiff as to admissibility.

10. I may notice that the learned Additional District Judge has kept the question of the “extent of proof” open for adjudication at the stage of final arguments.

11. I have asked as to the relevance of the aforesaid evidence and the issues framed in the suit.

12. Neither have the issues framed been placed on record nor is either of the counsel today able to supply copy thereof.

13. Without knowing what are the issues in the suit, the relevance of the evidence and the need to interfere with the order cannot be gauged.

14. The senior counsel for the respondent / defendant states that the documents on which Ex.DW1/P8 has been put were infact documents in another suit between the same parties with respect to the same packaging and record of which suit had been summoned on that date. It is also contended that during the course of examination of the DW1 by the petitioner / plaintiff, some other documents from the summoned suit record were also proved as Ex.DW1/P6 and qua which no challenge is made by the petitioner / plaintiff.

15. The senior counsel for the petitioner / plaintiff states that the documents Ex.DW1/P6 were not objected to because copies thereof were ready on the file of the subject suit.

16. The learned Additional District Judge having kept the matter of “extent of proof” open and subject to adjudication, presumably at the stage of final arguments, it is deemed appropriate to dispose of this petition also with liberty to the counsels to at the stage of final arguments address further arguments if any with respect to the documents Ex.DW1/P8 being taken on record and being admitted into evidence and the learned Additional District Judge is requested to in the final judgment in the suit also deal with the said contentions uninfluenced by the proceedings dated 6th March, 2017.

17. No costs.

18. It is made clear that I have not heard the counsels on the challenge in this petition and thus this order should not be construed as this Court having formed any opinion thereon.

RAJIV SAHAI ENDLAW, J

JULY 20, 2017

‘pp’..CM(M) No.517/2017

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