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

+ **FAO 341/2017 & CM Nos. 29362-63/2017 and Caveat 731/2017**

SUNIL RAI @ SUNEIL RAI

..... Appellant

Through: Mr. Yogesh Kr. Sharma and Mr.
Pranav Kumar, Advs.

versus

SPORTS STATION (INDIA) PVT LTD & SSIPL RETAIL LTD

..... Respondent

Through: Mr. Sonal Jain and Mr. Kuldeep
Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% 21.08.2017

1. After arguments, this appeal is disposed of with the consent order that in the application filed by the appellant/defendant under Order 9 Rule 13 CPC, trial court will frame an issue as to whether appellant/defendant was served in the suit whether directly or by refusal or by any other method and appellant will get three opportunities to complete his evidence on the issue as regards his non-service in the suit. If the appellant/defendant does not complete his evidence in three hearings then right of the appellant/defendant to lead evidence in the application under Order 9 Rule 13 CPC shall stand closed. Evidence will first be led on behalf of the

appellant/defendant on the issue as regards whether appellant/defendant was not served in the suit for his being proceeded ex parte.

2. Accordingly, the impugned order dated 3.6.2017 is set aside, but subject to the aforesaid observations.

3. Parties to appear before Dr. Neera Bharihoke, ADJ-01 (South), Saket Courts, New Delhi on 21.9.2017 and the trial court will now take up the application under Order 9 Rule 13 CPC for disposal in terms of the observations made in the present order.

Dasti to counsels for the parties.

VALMIKI J. MEHTA, J

AUGUST 21, 2017

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