

Department and he continued to be in that position until 2006 when he was transferred to Export Department in Mumbai.

2. He says that there was a CBI enquiry against Mr Ravi Malik, a key person in NFDC's TV Marketing Department. The CBI seized several thousand documents. According to the witness, these are important. It seems that the CBI returned these papers to NFDC's Delhi office in March 2007. They were sent to the Mumbai office a month later. They were kept in NFDC's office on the 7th floor. Later, premises on that and other floors were taken up for renovation. It is at this time that these papers were among those that were moved to the Films' Division Office at Peddar Road, Mumbai. This made it difficult to find the papers. It was not until PW2 himself requested in January 2018 that a thorough search be made that these papers were actually traced.

3. Mr Bookwala further makes a statement on instructions that the Plaintiff has no further documents and that the present application may be allowed as a matter of an exceptional indulgence. He further states that an authorised representative of NFDC will also file the necessary Affidavit of Documents under Rule 172 of the Bombay High Court (Original Side) Rules.

4. Mr Makhija's opposition for the Defendants is noted, including that NFDC has not filed a single Affidavit of Documents till date and that it cannot be allowed to constantly improve its case through the progress of a trial. While Mr Makhija will be correct, I do believe some allowance will have to be made for the facts that Mr

Chhinal states on Affidavit and the statement Mr Bookwala makes on instructions about there being no further documents proposed to be produced by and on behalf of the Plaintiff. I do not think it would be equitable or justifiable to shut out a party's evidence when that party says that the evidence is available and seeks to produce it before it closes its case. This does not mean that I have accepted the Plaintiff's case on the admissibility or relevance of these documents. I will address those issues once the Affidavit of Documents and compilation are filed.

5. Affidavit of Documents and compilation of documents duly indexed and paginated to be filed and served by 3rd September 2018.

6. Discovery and inspection is to be completed and statements of admission and denial are to be exchanged on or before 21st September 2018.

7. List the matter for marking of the additional documents on 28th September 2018 on the main board. On that day, I will issue further directions for continued cross-examination and for the appointment of a new Commissioner, the previous Commissioner, Ms Jerestin Sidhwa, having passed away.

(G. S. PATEL, J)