

15

\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CS(COMM) 1269/2016

GLAMOURLINE INC

..... Plaintiff

Through: Ms. Iti Sharma, Advocate.

versus

CHERUB OVERSEAS CORPORATION

..... Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

%

05.09.2018

I.A. 11920/2018 in CS(COMM) 1269/2016

Present application has been filed under Order IX Rule 9 CPC for setting aside the order dated 31st July, 2018 by which the present suit was dismissed in default and on account of non-prosecution.

It is pertinent to mention that in the order dated 31st July, 2018 it was specifically recorded that despite several opportunities having been granted, no evidence had been led by the plaintiff.

Today for the first time, learned counsel for plaintiff states that the PW1 is seriously unwell and therefore, could not lead his evidence.

Issues in the present suit for recovery had been framed on 07th September, 2016. As the plaintiff company had not led any evidence in the present case despite number of opportunities as well as the imposition of costs, its right to lead evidence was closed. This Court finds it difficult to believe that if PW1 was seriously unwell, then why was the said plea not advanced at any prior stage.

This Court further fails to fathom as to why no other evidence was led by the plaintiff company.

Also, no explanation has been given by the plaintiff for its non-appearance on 10th May, 2018 and 26th July, 2018.

Let the medical record of PW1 as well as the supplementary affidavit in support of the present application be filed within a period of four weeks.

List the matter on 26th November, 2018.

MANMOHAN, J

SEPTEMBER 05, 2018

js