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

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Date of Decision: 19.12.2018

+ RFA(OS) 90/2016 & CM Nos. 43559/2016 and 15185/2018

DHL EXPRESS INDIA PRIVATE LIMITED Appellant

Through: Mr. Rajiv Tyagi and Mr. Manish Dua,
Adv.

versus

DHL EMPLOYEES UNION & ORS Respondents

Through: Ms. Meghna De, Adv. for Mr. Rajiv
Agarwal, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI
HON'BLE MS. JUSTICE JYOTI SINGH

G.S. SISTANI, J. (ORAL)

1. Challenge in this appeal is to the judgment and decree dated 05.08.2016. The plaintiff/appellant had filed a suit for restraining the defendant no.1, being a Union of the employees of the plaintiff, and defendant nos. 2 to 13 and 15 to 27, being the employees of the plaintiff, from hampering, obstructing, interfering or disturbing the operations at the plaintiff's offices and service centres in Delhi and from organising or holding dharnas at the plaintiff's offices and service centres or threatening or instigating other employees from working or reporting for duty and/or from

preventing the other employees from performing their duties for the plaintiff and for ancillary reliefs. The grounds which are urged before us are that:

(a) While decreeing the suit, no distance has been fixed for the workmen to demonstrate, in view of the reasoning given in Para 16 of the judgment. Mr. Tyagi, learned counsel for the appellant submits that the respondents cannot be allowed to take law in their own hands as not only the respondents had contemplated holding demonstrations outside the five offices of the appellant, but to hold the appellants at ransom, they were planning to stage dharna even outside the offices of their 88 customers, names of which have been set out in the impugned judgment in Paragraph 10.

(b) The respondents are barred from demonstrating in view of Section 23 of the Industrial Disputes Act, 1947, during the pendency of conciliation proceedings.

2. Learned counsel for the respondents submits that there is no infirmity in the order passed by learned Single Judge, which would require interference. Learned counsel for the respondents further submits that the workmen have not received any notice of the conciliation proceedings and thus there is no bar in demonstrating outside the offices of the appellants.

3. We have heard the learned counsel for the parties. We find force in the submission made by Mr. Tyagi, learned counsel for the appellant that in the absence of any distance having been prescribed, there is every likelihood that the decree so passed would be rendered inexecutable in case the respondents choose to demonstrate outside the main door of the offices of the appellant or their customers. Accordingly, we modify Paras 16 and 17 of the judgment

and fix a distance of 75 meters from the offices of the appellant and their customers.

4. The Conciliation Officer shall issue notice to the respondents. This order would be brought to the notice to the Conciliation Officer by the appellant.

5. The appeal is accordingly disposed of with the above observations. Pending applications also stand disposed of.

G.S.SISTANI, J

JYOTI SINGH, J

DECEMBER 19, 2018

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