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

+ CM(M) 1441/2017 and CM 46192/2017

ASHOK MANILAL THAKKAR Petitioner

Through: Mr. Apoorve Vashistha, Advocate

versus

M.S SHOES EAST LIMITED Respondent

Through: Mr. Pavan Sachdeva, CMD of the
respondent

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **17.01.2018**

By the impugned order dated 23.11.2017, the opportunity for the evidence of the petitioner / defendant in the civil suit (CS 12936/2016) instituted by the respondent was closed. The non-appearance on the date given for the purpose leading to the impugned order being passed is explained by the fact that the petitioner suffers from cancer and was pre-occupied in taking chemotherapy treatment.

On notice the respondent who appears through Mr. Pawan Sachdeva, Chairman-cum-Managing Director of the respondent company /plaintiff fairly concedes that one more opportunity may be granted to the petitioner to adduce his evidence.

The counsel for the petitioner, on instructions, undertakes that the petitioner would appear for his evidence on the date that may be

fixed by the trial court for such purposes, suitable to the calendar of both sides as also keeping into account the calendar of the treatment being undertaken by the petitioner, and that no further adjournment would be sought.

The petition is allowed. The pending application also stands disposed of. The impugned order closing the evidence of the petitioner is set aside. The learned trial judge is requested to fix a suitable date convenient to his calendar, also taking into account the convenience of both sides, particularly the treatment being undertaken by the petitioner, for recording of the evidence of the petitioner as defendant and afford effective opportunity for such purposes. The petitioner shall remain bound by the undertaking given to this court. He shall not seek any adjournment on the date which is to be fixed for his evidence as above. It is made clear that in case of any further default the opportunity would stand exhausted by virtue of this order.

Dasti to both sides.

R.K.GAUBA, J

JANUARY 17, 2018

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