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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 313/2020**

M/S MANGLAM ELECTRICALS & ANR Petitioner
Through: Mr. Rahul Shukla, Mr. Akash Jandial
and Mr. Bhavan, Advocates.
(M:9871735724)

versus

VINAY KUMAR SINGH Respondent
Through: Mr. Ashutosh Singh, Advocate.
(M:8512817806)

CORAM:
JUSTICE PRATHIBA M. SINGH

O R D E R

% **06.03.2020**

CM APPL. 9164/2020(Exem)

Allowed, subject to all just exceptions. Application is disposed of.

CM(M) 313/2020 & CM APPL. 9163/2020

The only issue in this case is that the Defendants were proceeded *ex parte* and their cross-examination was closed as their counsel did not appear before the Trial Court. A perusal of the ordersheet shows that on 29th August, 2019, the affidavit in evidence of PW-1 was supplied to the Defendants. The matter was adjourned to 10th October, 2019 for cross-examination. The counsel for the Defendant did not appear on the said date. On 16th November, 2019, the Defendants were proceeded *ex parte* and arguments were heard on behalf of the Plaintiff. Immediately thereafter, the Defendant moved an application seeking setting aside of the order dated 10th October, 2019 which has been rejected by the Trial Court.

Ld. counsel for the Petitioner/Defendants submits that Mr. R.P.S.

Baghel, the counsel for his client did not appear and the Defendant also did not receive any information from the counsel. Accordingly, a notice was also sent by the Defendants to the counsel on 28th February, 2020.

On behalf of the Plaintiff/Respondent it is submitted that repeated adjournments have been sought by the counsel for the Defendants, who did not appear on various dates i.e., 15th March, 2019, 22nd April, 2019, 25th May, 2019, 18th July, 2019 and 29th August, 2019.

A perusal of the order dated 29th August, 2019 shows that the affidavit of PW-1 was supplied for the first time on the said date and hence the non - appearance insofar as cross-examination is concerned would have to be considered to be one date i.e., 10th October, 2019. However, since the Defendants have undoubtedly sought several adjournments in the matter, terms deserve to be imposed. This Court accordingly allows the Defendants to cross-examine PW-1 subject to payment of Rs.15,000/- as costs. Let the costs be paid on or before the next date in the Trial Court. PW-1 shall appear on the next date and the cross-examination shall be conducted by the Defendants without seeking any adjournment, as per the dates fixed by the Trial Court.

With these observations, the petition and all pending applications are disposed of.

PRATHIBA M. SINGH, J.

MARCH 06, 2020

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