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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 89/2018 & CRL.M.A. 13461/2022**
M/S VEGA INDUSTRIES PRIVATE LTD Plaintiff

Through: Mr. S.K. Bansal, Mr. Pankaj Kumar
and Mr. R.K. Tarun, Advocates.

versus

M/S JMD COSMETICS Defendant

Through: Mr. Rajesh Sharam and
Mr. Shailender Kumar, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

% **ORDER**
14.02.2023

I.A. 1463/2023 (for reopening of evidence by recalling PW1 for examination/cross-examination by exhibiting the marked documents)

1. By way of instant application, Plaintiff seeks to reopen the evidence of PW-1 [Mr. Aroon Jain] for proving documents referred to in his testimony as Mark B and Mark C.
2. On 10th January, 2018, examination-in-chief of PW-1 was deferred for want of originals of Ex. PW1/8, Ex. PW1/13, Ex. PW1/15, Ex. PW1/16, Ex. PW1/17 and Ex. PW1/18. Later, Ex. PW1/15, Ex. PW1/16, Ex. PW1/17 and Ex. PW1/18 were de-exhibited on 03rd May, 2018 and referred to as Marks A to D, as the witness could not produce original copies thereof. Since PW-1 has recently been able to lay his hands on originals of Mark B and Mark C [Ex. PW1/16 and Ex. PW1/17, respectively], Plaintiff seeks permission to



re-examine PW-1 for the purpose of proving said documents.

3. Counsel for the Defendant objects to the instant application arguing that it is only a dilatory tactic as the Plaintiff is repeatedly taking adjournments, and not arguing the matter. Further, without prejudice to his rights and contentions, he states that since the documents relied upon by the Plaintiff are wholly irrelevant, he has no objection in case they are admitted in evidence and referred to as exhibits. He waives his right to cross-examine PW-1 in relation to Ex. PW1/16 and Ex. PW1/17.

4. In view of the above, since evidence has already been led on these documents in the testimony of PW-1, the present application is allowed and the documents referred to as Mark B and Mark C are admitted in evidence as Ex. PW1/16 and Ex. PW1/17, respectively. Since the Defendant has waived its right to cross-examine the said witness, PW-1 need not be re-examined and his testimony shall be read accordingly. The original documents shall be preserved by the Plaintiff and produced in Court, as and when directed.

5. Considering the fact that present application has been filed at such an advanced stage resulting in delay in proceedings, Plaintiff is burdened with a cost of Rs. 10,000/-, which shall be paid to the counsel for Defendant.

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6. List for final arguments on 6th July, 2023.

SANJEEV NARULA, J

FEBRUARY 14, 2023/nk