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

+ **CS(COMM) 118/2016**

MOBILE TELESYSTEMS PJSC & ANR

..... Plaintiffs

Through: Mr. Shantanu Sahay, Mr. Aasish
Somasi, Ms. Imom Roy,
Advocates.
(M:- 8210095739)

versus

MAHESH BHATTI & ORS

..... Defendants

Through: Mr. Rajat Aneja, Mr. Abhishek
Kumar, Ms. Jia Kapur, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **08.11.2019**

I.A. 15507/2019 (Application under Section 45 of the Indian Evidence Act 1872 for allowing the plaintiffs to replace Mr. Abhishek Ranjan with Ms. Neelima Singh)

1. Issue notice. Mr. Rajat Aneja, learned counsel for the defendants accepts notice. By consent of the parties, the application is taken on board for hearing.
2. By an order dated 27.09.2019, the plaintiffs' application for amendment of the list of witnesses was allowed, whereby Mr. Abhishek Ranjan was added to the list of witnesses to give evidence as to the

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veracity of the translation of some documents which were originally in Russian.

3. By that order, it was directed that the affidavit of evidence of Mr.Abhishek Ranjan be filed within one week and the time for recording of evidence before the Local Commissioner was extended till 30.03.2020.

4. By the present application, the plaintiffs state that Mr.Abhishek Ranjan is not available to depose in the suit and seek to substitute his evidence with that of Ms. Neelima Singh. It is stated that the proposed witness is also an expert in the Russian language and will give evidence as to the correctness of the translation.

5. The conduct of the plaintiffs shows lack of diligence in the prosecution of the suit. The order for addition of Mr.Abhishek Ranjan to the list of witnesses was at the plaintiffs' instance and the plaintiffs ought to have ascertained his availability prior to making that application. Pursuant to order dated 27.09.2019, the affidavit of evidence of Mr.Abhishek Ranjan was also not filed. The recording of evidence has been fixed by the Local Commissioner today i.e. 08.11.2019 and it is at this stage that the present application is filed.

6. In these circumstances, the application is allowed, but subject to payment of costs assessed at ₹30,000/- by the plaintiffs to learned counsel for the defendants. Amended list of witnesses annexed to the application is taken on record.

7. All rights and contention of the defendants are reserved with respect to the contentions of the plaintiffs.



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1. The matter is fixed before the Local Commissioner today. The Local Commissioner has also fixed further dates for recording of evidence on 22.11.2019 and 26.11.2019. It is stated that cross-examination of PW-1 is going on.
2. Affidavit of evidence of Ms. Neelima Singh has apparently been filed already. After conclusion of his evidence, the Local Commissioner will give directions for recording of evidence of Ms. Neelima Singh, and thereafter, evidence of the defendants may also commence, as recorded in the order dated 27.09.2019.
3. List on the date fixed i.e. 17.03.2020.

PRATEEK JALAN, J

NOVEMBER 08, 2019
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