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

+ **CS(COMM) 647/2019**

ITC LIMITED

.....Plaintiff

Through: Mr. Jayant Mehta, Sr. Advocate
with Mr. Tanmay Mehta, Mr. Kunal
Vats and Mr. Sudeep Chaterjee,
Advocates.

Versus

RAJ KUMAR MITTAL & ORS.

.....Defendants

Through: Counsel for Contemnor no.1
(appearance not given) with
Contemnor No.1 in person.
Mr. J. Karan Malhotra, Advocate
for Contemnor no.2.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

01.08.2024

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CCP (O) 9/2020

1. The matter has been taken up on the third call.
2. Learned counsel for the contemner no.1 seeks to be dispensed with on account of some bereavement in his family. The presence of learned counsel for the contemner no.1 is dispensed with.
3. During interaction with the contemnor no.1, present in Court today, the contemner no.1 has tried to seek forgiveness for his conduct with the Local Commissioner appointed pursuant to the order dated 28.11.2019 passed by this Court. However, he does not deny any of the averments made by him both in the reply and in the amended reply to the present application.



4. The contemnor no.1 submits that he is not in possession of the product seized by the Local Commissioner as mentioned in the *Superdarinama* dated 07.12.2019. Thereafter, he submits that though as per his own averment made in reply as also in the amended reply to the present application, the products and packaging were kept in two small rooms in his possession, the said products and packaging were actually in the possession of the contemnor no.2 over which he has no control as he has ongoing disputes with him. He again submits that it is only the contemnor no.2 who is not only in position of the products and packaging but also is the one who will be in a position to divulge the details qua the products and packaging seized by the Local Commissioner, as and when called to do so by this Court.

5. Let an affidavit be filed by the contemnor no.1 within a period of one week after supplying a copy thereof to the learned counsel for the plaintiff.

6. Let the contemnor no.1 remain present in Court without fail, in person, on the next date of hearing.

7. Learned counsel appearing for the contemnor no.2 submits that despite repeatedly contacting the contemnor no.2, he has chosen neither to appear physically nor through video conferencing. In effect, he is evading to appear before this Court despite specific orders.

8. In any event, learned counsel appearing for the contemnor no.2 seeks, and is granted one week for filing an affidavit of the contemnor no.2 after supplying a copy thereof to the learned counsel for the plaintiff.

9. In fact, a perusal of the order sheets reveal that the contemnor no.2 has not been appearing since January, 2023 till today and has been



appearing only occasionally. So much so, this Court vide order dated 23.05.2023 had earlier issued bailable warrants.

10. Considering the conduct and repeated non-appearance of the contemnor no.2, issue bailable warrants against contemnor no.2 for an amount of Rs.50,000/- to be executed through the concerned local Police Station returnable on 29.08.2024. The representative of the plaintiff is also permitted to visit the concerned local police station and apprise the SHO concerned of the order passed, so as to ensure that bailable warrants are served upon and executed upon the contemnor no.2.

11. Renotify on 29.08.2024.

12. Needless to say, both the contemnor nos.1 and 2 shall remain present in Court on the next date of hearing.

SAURABH BANERJEE, J

AUGUST 01, 2024/ssc