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

+ **CS(OS) 689/2009**

M/S BUILD MORE INDIA LTD. Plaintiff

Through: **Mr. Suraj Prakash, Advocate.**

versus

M/S PRITHVI TRADERS LTD & ANR Defendants

Through: **Mr. R.V. Sinha and Mr. A.S. Singh,
Advocates for D-2.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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20.01.2022

[VIA VIDEO CONFERENCING]

I.A. 3282/2020 (on behalf of Plaintiff under Section 151 of the Code of Civil Procedure, 1908 seeking directions for de-exhibition of exhibits marked by D2W12 in his Examination-In-Chief)

1. By way of this application, a direction is sought for de-exhibition of exhibits marked by D2W12 - Mr. Gopal Datt Joshi - who, while recording his statement, referred to Exhibit D2W12/1 (Colly.) comprising of 445 pages.
2. Counsel for the Plaintiff states that these documents are irrelevant to the present case, should therefore be de-exhibited. He further submits that otherwise, Plaintiff should be afforded an opportunity to lead evidence by cross examination of the persons whose statements have been brought on record under Exhibit D2W12/1 (Colly.).
3. In the opinion of the Court, the request made in the application cannot be entertained. The purpose of referring a document as an exhibit is only to



identify the document during the course of trial. It is well-settled in law that marking an exhibit does not amount to proof of a document. The question of relevance of a document so exhibited is also to be examined at the stage of final adjudication. Moreover, Plaintiff's request to cross examine the witnesses, can also not be granted, as the said witnesses have not deposed before the court. Only their statements which form part of Exhibit D2W12/1 have been brought on record. The Court has been informed that Mr. Gopal Datt Joshi is still under cross examination. If the Plaintiff seeks to cross examine the said witness, he is free to do so. In addition to the said witness, in case Plaintiff would like to lead other additional witnesses, the same has to be done in accordance with the provisions of the Code of Civil Procedure, 1908.

4. In view of the above, the present application is dismissed.

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5. List on 25th February, 2022 before the Joint Registrar for fixing dates for recording of evidence.

JANUARY 20, 2022

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SANJEEV NARULA, J