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

+ **CS(OS) 2626/2008 & I.A. Nos. 15537/2008, 2024/2009,
3163/2016, 3381/2016, 3677/2016, 12780/2016, 13682/2016**
M/S HANSRAJ GUPTA & CO. PVT. LTD Plaintiff
Through: Mr. Sujoy Kumar, Advocate.

versus

SH. SHIV RAJ GUPTA Defendant
Through: Mr. Ankur Mahindro, Mr. Sanjoli
Mehrotra and Mr. Ankush **Sajja**,
Advocates.

+ **CS(OS) 915/2009 & CCP(O) 69/2016**
SHRI SHIVRAJ GUPTA AND ANOTHER Plaintiffs
Through: Mr. Ankur Mahindro, Mr. Sanjoli
Mehrotra and Mr. Ankush **Sajja**,
Advocates,

versus

HANSRAJ GUPTA & CO. PVT. LTD. Defendant
Through: Mr. Sujoy Kumar, Advocate.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

% **ORDER**
02.09.2019

1. This suit is listed today on receipt of reports dated 26.07.2019 and 26.08.2019 submitted by the learned Local Commissioner who is recording evidence in these suits. The learned Local Commissioner has

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reported that the evidence of M/s Hansraj Gupta & Co. Pvt. Ltd. [the plaintiff in CS(OS) No. 2626/2008 and defendant in CS (OS) No. 915/2009] has been recorded. However, Mr. Shivraj Gutpa [the defendant in CS(OS) No. 2626/2008 and plaintiff in CS(OS) No. 915/2009] has neither filed the list of witnesses nor affidavits of evidence on behalf of the witnesses he wishes to examine.

2. By an order dated 04.07.2019, this Court had noted that the matter had been pending before the Ld. Local Commissioner for very long and had directed the Local Commissioner to ensure that the evidence of both the parties was concluded before the next date. It was further directed that any party seeking adjournment would be saddled with costs.

3. Learned counsel for Mr. Shivraj Gupta today submits that he is 90 years of age, which has led to the delay in filing of evidence on his behalf. However, it is stated that he wishes to lead oral evidence and file affidavits of evidence of two witnesses, i.e, Mr. Jayant Gupta (son of the Mr. Shivraj Gupta) and Ms. Roopa Gupta (daughter in-law of the Mr. Shivraj Gupta). Mr. Shivraj Gupta is permitted to file the affidavits of evidence of these two witnesses within two weeks, subject to payment of costs of ₹40,000/- to learned counsel for the plaintiff.

4. Learned counsel for the defendant states that in the oral evidence of two witnesses, he will also incorporate reference to proceedings in other litigations between the parties. He may do so subject to any objections that learned counsel for the plaintiff may be entitled to raise in accordance with law. In the event the plaintiff insists upon the formal



proof of the certified copies of any such documents, the defendant will be entitled to approach this Court for calling oral evidence of further witnesses.

5. Learned counsel for both the parties may contact the Local Commissioner in advance to fix three dates for cross-examination of the two witnesses. If the cross-examination is not concluded within the three dates, the Local Commissioner may fix further dates for cross-examination with the greatest possible expedition.

6. As noted in the order dated 04.07.2019, parties are directed to cooperate with the Local Commissioner and any party seeking adjournment on any ground whatsoever will be saddled with costs. The time for completing the recording of evidence in these circumstances is extended till 15.11.2019.

7. List before the Court on the date fixed i.e. 16.09.2019.

8. Mr. Sujoy Kumar, learned advocate states that in the order dated 04.07.2019 his presence has been inadvertently being shown on behalf of Sh. Shivraj Gupta instead of M/s Hansraj Gupta & Co. Pvt. Ltd. The order dated 04.07.2019 is corrected to that extent.

PRATEEK JALAN, J

SEPTEMBER 02, 2019

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