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

+ **CS(COMM) 230/2016**

M/S KUSHAL INFRAPROJECT INDUSTRIES(INDIA) LTD

..... Plaintiff

Through: Mr. Pratham Sharma & Ms. Prabhan
Kaur, Advocates.

versus

M/S WELKIN MARKETING PVT LTD & ORS Defendants

Through: Mr. Arun Batta & Ms. Jaspreet Gogia,
Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **14.02.2024**

I.A. 24371/2023 (u/Order XXVI Rule 4A r/w Section 151 of CPC, 1908)

1. By way of present application, the applicant/plaintiff seeks appointment of a Local Commissioner for recording of evidence of the plaintiff.
2. Learned counsel for the non-applicants/defendants submits that 35 dates have been fixed for recording of evidence, out of which, on 25 dates, adjournments were sought on behalf of the applicant/plaintiff. However, he submits, on instruction, that the applicants/plaintiffs have no objection if the present application is allowed and the Local Commissioner is appointed for recording the evidence of the plaintiff.
3. Learned counsel for the applicant/plaintiff submits that the entire evidence may be allowed to be recorded through the Local Commissioner to



which, learned counsel for the non-applicants/defendants has no objection, but he submits that the entire costs for recording of evidence may be borne by the applicant/plaintiff.

4. Submissions heard.

5. Considering the reasons stated in the present application as well as no objection on behalf of the non-applicants/defendants, the present application is allowed and Mr. Amarnath, District & Sessions Judge (Retd.) (Mobile No.9958697030) is hereby appointed as the Local Commissioner for recording of entire evidence of the parties on the following terms: -

- (i) The fees of the Local Commissioner is fixed at Rs. 15,000/- per date for effective hearing and Rs.3,500/- for ineffective date.
- (ii) The entire costs for recording of evidence shall be borne by the applicant/plaintiff.
- (iii) In case, any adjournment is taken by either party, the said party shall bear the costs of the said sitting. The Local Commissioner shall decide whether the adjournment is on account of the party/parties.
- (iv) The evidence will be recorded by the Local Commissioner within precinct of the High Court.
- (v) In case of requirement of Court file, the Registry shall make the arrangements to send the Court file for the sitting before the Local Commissioner and Rs. 2,500/- is fixed towards the fees to be paid to the Court staff for carrying the Court file and the same will be borne by the applicant/plaintiff.
- (vi) The Local Commissioner is requested to complete the recording of evidence of the parties within six months.



- (vii) The parties to approach the Local Commissioner within one week for fixing dates for recording the evidence.
- (viii) The parties shall provide full assistance to the Local Commissioner for recording of evidence.
6. Both the parties are directed to appear before the Local Commissioner on 06.03.2024 at 03:30 P.M.
7. Accordingly, the application is disposed of.
- CS(COMM) 230/2016 & CC(COMM) 15/2017**
8. List before this Court on 08.11.2024.

NEENA BANSAL KRISHNA, J

FEBRUARY 14, 2024
S.Sharma