



\$~37

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 240/2016 and I.A. 6184/2016
SHRI AMIT JAIN & ANR Plaintiffs

Through: Ms. Nandini Sahni, Advocate

versus

SHRI DEEPAK JAIN & ORS Defendants

Through: Mr. Sachin Aggarwal, Advocate

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
12.10.2023

%

1. The present matter has been put up on an office note.
2. This Court is constrained to note that after the framing of issues, a Local Commissioner was appointed to record evidence as far back as on 12.10.2018. Prior to that, on 06.08.2018, the parties were directed to file their respective list of witnesses. On 08.10.2018, the defendants sought time to file their list of witnesses within two weeks.
3. Even earlier, the matter was put up on an office note as noted in the proceedings dated 07.02.2020. In the said proceedings, the Court noted that counsel for defendant No.1 had carried out extensive cross-examination of PW-1 and by then had asked 188 questions. Noting the aforesaid conduct, it was directed that the remaining cross-examination of PW-1 be concluded within two hours with a latitude of half an hour.
4. This Court is both surprised and shocked to note that till date



defendant No.1 has not filed his list of witnesses. The Local Commissioner recorded the same in its order dated 22.09.2023.

5. Today, learned counsel for defendant No.1 states that he is in the process of filing an application seeking liberty to file the list of witnesses. He prays that one week's more time be granted.

6. Learned counsel for the plaintiffs fairly submits that to avoid further delay one last opportunity be granted however, subject to payment of heavy costs. She, on instructions, further submits that though plaintiffs' evidence is closed however, he is ready and willing to pay additional fee of the Local Commissioner to the tune of Rs.1,00,000/- which would remain subject to the cost of the suit, if any.

7. Considering the above submissions and the no objection given by the learned counsel for the plaintiffs, one last opportunity is granted to defendant No.1 to file the list of witnesses subject to payment of costs of Rs.50,000/- to be paid to the plaintiffs within 4 weeks.

8. It is made clear that in case list of witnesses is not filed within seven days from today or the cost is not paid within the directed time, defendant No.1's right to lead evidence shall stand closed.

9. List before the Local Commissioner on 05.12.2023.

MANOJ KUMAR OHRI, J

OCTOBER 12, 2023

na