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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(COMM) 245/2017, IA No.7004/2013(u/O.XXXIX R-1&2 CPC)**  
**& CC(COMM) 54/2017**  
**DURA-LINE INDIA PVT LTD** ..... Plaintiff  
Through: Mr. Neel Mason with Ms. Sneha  
Sharma & Mr. Uday S. Chopra, Advs.

versus

**JAIN IRRIGATION SYSTEMS LTD** ..... Defendant  
Through: Mr. Avinash Sharma &  
Mr. Rishesh Sikarwar, Advs.

**CORAM:**  
**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**  
**ORDER**  
% **23.10.2019**

1. This suit is listed vide office note dated 17<sup>th</sup> October, 2019 and which in turn is in terms of the proceedings of 9<sup>th</sup> October, 2019 in the commission issued for recording evidence.
2. It is reported that the recording of evidence in the suit stands concluded.
3. The counsels confirm.
4. The counsels state that the suit is ripe for final hearing.
5. The counsel for the plaintiff states that in this suit infringement of patent as well as design claimed by the plaintiff in respect of two products of the defendant called (a) "B-Sure Polythene(PE) and Polypropylene(PP)" and (b) "Jain Insta Tracer Pipes" of the defendant, the plaintiff as well as the defendant have led evidence qua both the products; however it is now

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realized that while, in issue no.4 qua infringement of design, both the products have been mentioned, in issue no.3(framed on 5<sup>th</sup> October, 2016) qua infringement of patent, only one of the products i.e. “B-Sure Polythene(PE) and Polypropylene(PP)” is mentioned, “Jain Insta Tracer Pipes” remained to be mentioned. Clarification is sought, that under issue no.3, both the products shall be considered.

6. The counsel for the defendant also agrees but states that he will have to inform his client.

7. An Advocate is not bound by instructions in such matters. Once it is admitted that the suit is qua two products and evidence has been led qua both the products by both the parties, such technicalities ought not to require an application, as is suggested.

8. It is thus clarified that issue no.3 would be considered as also qua “Jain Insta Tracer Pipes”.

9. List for final hearing in the category of ‘After Notice Miscellaneous Matters’ on 15<sup>th</sup> April, 2020.

**RAJIV SAHAI ENDLAW, J**

**OCTOBER 23, 2019**

‘ak’..

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