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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1264/2013 & C.M. No.18872/2013
GOVT OF NCT OF DELHI

..... Petitioner

Through Mr. Siddharth Dutta, Adv.

versus

M/S DELHI PRESS PATRA PRAKASHAN PVT LTD & ORS

..... Respondents

Through Mr. Amit Sagar, proxy counsel for R-1
& R-2.
R-3 in person.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **09.02.2016**

Respondent No. 3 has been served. He has put in appearance.

The petitioner is aggrieved by the two orders. The first order is dated 07.12.2011 and the second order is the subsequent order dated 18.11.2013. Vide order dated 07.12.2011, the right to cross-examine, the witness of the plaintiff stood closed. On that day, PW-1 was present but the defendant's counsel had sought an adjournment; the Court had noted that the earlier cost imposed upon the defendant on 21.04.2011 had also not been paid and there appears to be no justifiable reason for the absence of the counsel for the defendant. Accordingly, the right to cross-examine PW-1 stood closed. On that day, on the statement made by the plaintiff, the evidence of the plaintiff also stood closed. Matter was listed for the defendant's evidence.

On 18.10.2012, an application was filed seeking a recall of the

earlier order dated 07.12.2011 vide which the right of the defendant to cross-examine PW-1 had stood closed. On that date, the Court had again noted that the defendant inspite of opportunity had not produced his evidence in defence. The Court had in fact noted the lackadaisical and almost negligent attitude of the defendant. The Court not being in sympathy with the stand of the defendant had accordingly dismissed his application.

Record shows that the present suit is a suit for recovery of Rs.20 lacs as damages which the plaintiff claims against the Government of NCT of Delhi-respondent No. 1 and Azim Akhtar, the then AC, Food and Supply. This amount was claimed by the plaintiff as compensation on account of harassment, humiliation, physical and mental torture suffered by the plaintiff for the alleged criminal complaint which has been filed by the defendant against him.

Written statement was filed. Issues were framed. It was at the stage of the plaintiff evidence that the right of the defendant to cross-examine PW-1 stood closed.

A valuable right would be lost to the defendant in case he is not allowed to plead his defence which includes the right to cross-examine PW-1. The suit relates to the year 2007-2008. This Court has been informed that there is no date in the Trial Court as the proceedings had been stayed by this Court vide order dated 27.11.2013.

In the interest of justice, the impugned orders are set aside. The right to cross-examine PW-1 will be afforded to the defendant and for that purpose, he shall be granted only one opportunity. The Trial Court shall fix a date on which date the plaintiff will ensure that PW-1 is

present for his cross-examination. The defendant is also permitted to lead two witnesses in defence which includes the Press Officer who is defendant in the suit and one more witness. The affidavits of the witnesses of the defendant shall be filed with an advance copy to the learned counsel for the plaintiff. The defendant for this purpose shall be granted only one opportunity when both the witnesses of the defendant will be present for their cross-examination. This order is passed subject to payment of costs of Rs.25,000/-. Parties to appear before the concerned Trial Court on 01.03.2016.

Petition disposed of.

INDERMEET KAUR, J

FEBRUARY 09, 2016

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