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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1016/2014 & C.M.No.18809/2014
L C SHARMA (SINCE DECEASED THR LRS)

..... Petitioner

Through Mr. Sudhir Nandrajog, Sr. Adv. with
Mr. R.D. Sharma, Mr. Rajat Sharma
and Mr. Chetan Sharma, Advs.

versus

JAI SINGH

..... Respondent

Through Mr. Mandeep Singh Vinaik, Adv.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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18.03.2016

Order impugned before this Court is the order dated 27.10.2014 vide which two rights of the petitioner/defendant in the Trial Court had been closed. The first was his right to cross-examine PW-1 & PW-2. The second was the dismissal of his application under Order 6 Rule 17 of the CPC. Learned senior counsel for the petitioner is not aggrieved by the second part as the Trial Court in the impugned order has itself recorded that the proposed amendments already formed a part of the written statement.

Needless to state that these arguments have been refuted and to support this arguments, learned counsel for the respondent has placed reliance upon 2015 LawSuit (Del) 3583 ARB Inc. Vs. United India Insurance Co. Ltd. & Others.

Record shows that a suit for specific performance had been filed by the respondent/plaintiff in the Trial Court. Learned senior

counsel for the petitioner submits that this suit was based on a photocopy of an agreement. Parties were put to trial. Intervening applications were filed by the parties. Contention of the defendant all along was that he wishes to cross-examine PW-1 & PW-2 on the same date. This was declined by the Trial Court. He had come to the High Court and the High Court vide its order dated 27.03.2012 had permitted cross-examination of both PW-1 & PW-2 to be conducted on the same date. PW-2 has filed his affidavit by way of evidence on 03.09.2012.

Learned counsel for the parties do not dispute that in this intervening period i.e. the date when the impugned order was passed, the Court was dealing with intervening applications. On the date of the impugned order although the counsel for the petitioner/defendant was present to conduct cross-examination but since both the witnesses (PW-1 & PW-2) had to be cross-examined on the same date, the counsel for the petitioner/defendant had expressed his inability to be present in Court in the post lunch hour as he had to go to the High Court to attend another hearing on which date the cross-examination of two witnesses i.e. PW-1 & PW-2 stood closed. Matter was thereafter listed for remaining plaintiff's evidence.

This Court has been informed that there is no date as on date before the Trial Court as the proceedings before the Trial court have now been stayed by this Court.

In view of the submissions made by the learned counsel for the petitioner and the undertaking of the counsel which is to the effect that only one opportunity may be granted to the petitioner/defendant

to cross-examine PW-1 & PW-2 which cross examination will be conducted on the same date and no unnecessary adjournment will be given, this Court, in the interest of justice, grants one opportunity to cross-examine PW-1 & PW-2. The date shall be fixed by the Trial Court as per diary. This order is passed subject to payment of Rs.10,000/- as costs. Parties to appear before the Trial Court on 19.04.2016.

Petition disposed of.

INDERMEET KAUR, J

MARCH 18, 2016

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