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

+ CM(M) 849/2017

MANOJ YADAV & ANR Petitioners

Through: Mr. Surender Soni, Adv.

Versus

ALLAHABAD BANK Respondent

Through: Mr. Rajiv Mishra & Ms. Shruti
Sharma, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **08.08.2017**

CM No.28181/2017 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

CM(M) 849/2017 & CM No.28180/2017 (for stay)

3. This petition has been preferred by the defendants in a suit for recovery of Rs.3,42,385/- impugning the order [dated 3rd July, 2017 in Civil Suit No.58732/2016 of the Court of Additional District Judge (ADJ)-05, New Delhi District, Patiala House Courts, New Delhi] closing the right of the petitioners / defendants to cross-examine the PW1 of the respondents / plaintiffs.
4. The learned ADJ, on 3rd July, 2017, adjourned the matter to 25th July, 2017 for evidence of the petitioners / defendants.

5. On enquiry, the counsel for the petitioners / defendants states that on 25th July, 2017, the petitioners / defendants filed affidavit by way of examination-in-chief of one witness and the suit is now posted for cross-examination of the witness of the petitioners / defendants. The counsel for the respondent / plaintiff appearing on advance notice confirms.
6. On enquiry, it is informed that the issues in the suit were framed on 16th March, 2017 and the suit was posted to 24th March, 2017 for evidence of the respondent / plaintiff when the affidavit by way of examination-in-chief of the respondent / plaintiff was tendered in evidence and on request of the petitioners / defendants, the cross-examination of the said witness of the respondent / plaintiff was adjourned to 3rd July, 2017.
7. However, the petitioners / defendants have not filed the order sheet to support the same and the counsel for the respondent / plaintiff though appears on advance notice is also clueless.
8. Subject to the aforesaid being correct and subject to the petitioners / defendants depositing costs of Rs.30,000/- with the respondent Bank on or before 15th August, 2017 and furnishing receipt thereof before the ADJ on the next date of hearing, the petitioners / defendants shall have only one opportunity to cross-examine PW1, who is also directed to remain present before the suit Court on the next date of hearing for his cross-examination.
9. It is however made clear that if the representation by the counsel for the petitioners / defendants of the proceedings before the Trial Court as recorded above is not correct or if the cost is not paid, the petitioners / defendants shall have no right of cross examination of PW1.

10. Similarly, if the petitioners / defendants do not cross-examine PW1 on the next date of hearing, then also the petitioners / defendants would have no further opportunity.

The petition is disposed of.

RAJIV SAHAI ENDLAW, J

AUGUST 08, 2017

‘gsr’..

CM(M) 849/2017

Page 3 of 3