

\$~5

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

+ FAO(OS) 5/2017 and CM No.883/2017

% Date of decision : 31st October, 2017

THE CALCUTTA STOCK EXCHANGE Appellant
Through : Mr. Manish Goswami, Adv.

versus

BLB LIMITED Respondent
Through : Mr. P. Nagesh and
Mr. Dhruv Gupta, Advs.

**CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR**

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

1. The appellant before us (defendant in the suit), assails an order dated 20th October, 2016 whereby the learned Single Judge has dismissed IA No.11624/2016 filed by the appellant in CS(OS) No. 272/2004 under Order 16 Rule 1A seeking leave to lead the evidence of Sh. Motamarri Appanna Veerraju (Sri M.A.V. Raju), as DW-2 for reasons set out in para 3 of the application. Amongst others, the appellant has pointed out the three reports which were exhibited in the

evidence of the first defence witness at the instance of the respondent/plaintiff.

2. The witness was present on the first day when the case was listed before the Joint Registrar and when the evidence of first defence witness was concluded. He was also present on 30th August and 14th September, 2016 when the application was listed before the court and the application was rejected primarily on the ground that the application was dilatory.

3. In our view, the record of the case does not support this conclusion.

4. At this stage, Mr. P. Nagesh, learned counsel for the respondent/plaintiff submits that in order to avoid any delay and without in any manner admitting the case and contention of the appellant, he would not oppose if one opportunity is given to the appellant to produce the said person as a witness and a date for this purpose be fixed.

5. In view thereof, we hereby set aside the impugned order dated 20th October, 2016 and permit the appellant to examine Mr. Sh. Motamarri Appanna Veerraju (Sri M.A.V. Raju) as DW-2.

6. We are also of the view that the said witness deserves to be permitted to produce and prove four documents which have been detailed in para 3j(i)-(iv) of IA No.11624/2016.

7. Parties shall appear before the Joint Registrar (Judicial) in CS(OS) No. 272/2004 on 20th November, 2017 for fixing a date for recording of the evidence of Mr. Sh. Motamarri Appanna Veerraju

(Sri M.A.V. Raju) as DW-2 who shall be permitted to produce and prove the aforestated documents.

8. This appeal and application are allowed in the above terms.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

OCTOBER 31, 2017/kr

