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

+ CM (M) 347/2018

MOHAMMAD ABBAS Petitioner

Through: Mr. M.A. Niyazi, Adv. with
Mr. Manish Kumar, Adv.

versus

SHARMILA BANERJEE Respondent

Through: Mr. Ashwani K. Sakhija, Adv. with
Mr. Puneet Saini, Adv. &
Mr. Sunandoo Mukherjee, Adv.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **23.03.2018**

CM APPL.11732/2018 (exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CM(M) 347/2018 and CM APPL.11731/2018 (stay)

Issue notice.

The respondent appears and accepts notice through counsel Mr. Ashwani K. Sakhija.

After some hearing, the learned counsel for the respondent fairly concedes that given the submissions now made wherein the petitioner intends to examine in further evidence Mohd. Shavez Akhtar (whose affidavit is already been on record) and officials from the office of registrar of companies and registrar of firms, (the other witnesses mentioned in the list of witnesses having been given up), the further opportunity for the

purpose may be granted to the petitioner though subject to suitable terms including costs the request primarily being that the case be decided at the earliest, the counsel for the petitioner having clarified that besides the said three witnesses, he does not intend to examine any other witness.

In this view, the impugned orders are set aside. The petitioner is granted additional opportunity to examine the afore-mentioned witnesses, *i.e.* Mohd. Shavez Akhtar and the two official witnesses, the first witness to be produced by the petitioner on his own responsibility and the latter to be summoned with the assistance of the Court, subject to costs of Rs.10,000/- to be paid to the respondent. The additional rent controller (ARC) shall fix a suitable date for recording of such remaining evidence of the petitioner as aforesaid and on such date, it shall be the responsibility of the petitioner to produce the witness Mohd. Shavez Akhtar and to examine him besides tendering him for cross-examination by the opposite party on the same date.

The petitioner shall also be obliged to take requisite steps in advance and ensure service of summons on the two official witnesses to be called for the same date to be examined before the examination of Mohd. Shavez Akhtar.

Given the proceedings recorded earlier by the trial Court, copies whereof have been placed on record, it is clear that the petitioner has not been appearing with counsel on the first call. On the date fixed for remaining evidence to be adduced, it shall be the responsibility of the petitioner, as indeed of the opposite party, to remain present with counsel duly briefed on the first call of the case.

Given the fact that the case has been delayed also for reasons of the petitioner, no further indulgence shall be shown by the ARC in the event of any further lapse or default and the opportunity would stand exhausted, if the same is not availed strictly in these terms. The ARC shall make all endeavour to decide the case at the earliest.

The petition and the applications filed therewith stand disposed of in above terms.

Dasti under the signature of Court Master.

R.K.GAUBA, J.

MARCH 23, 2018

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