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

+ CM(M) 641/2018

ROHIT @ CHHOTU

..... Petitioner

Through: Mr. Murari Tiwari and Mr. Rahul
Kumar, Advs.

versus

PAPPU & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

O R D E R

% **25.10.2018**

CM No.22831-32/2018 (exemptions)

1. Allowed subject to all just exceptions.
2. The applications are disposed of.

CM(M) 641/2018 & CM No.22830/2018 (stay)

3. The petitioner has challenged the order dated 20.03.2018 passed by the learned Additional District Judge-02, Central Delhi (ADJ) under Article 227 of the Constitution of India. He submits that the right of the petitioner/defendant No.1 to cross examine PW1 has been closed and he was not even supplied the copy of affidavit tendered in evidence. He submits that the next date of hearing before the Trial Court is 30.10.2018.

4. The petitioner has placed on record the copies of the order sheets of the relevant dates. For expeditious disposal of the civil suit, this court deems it expedient to dispense with the necessity of issuing notice to the respondents.

5. The Trial Court framed the issues on 23.11.2016 and the matter was

adjourned for the evidence of the plaintiff for 06.12.2017. On the adjourned date of hearing, since none had appeared on behalf of respondent No.1/plaintiff, the Court directed that the advance copy of the documents along with the affidavit be supplied at least 4 weeks in advance and adjourned the matter for 14.03.2018. On the next date i.e. 14.03.2018, learned counsel for the petitioner/defendant No.1 brought to the notice of the Court that he has not been supplied with the copy of the affidavit, though, the learned counsel for the defendants No.1 & 2 confirmed having received the copy of affidavit. When the plaintiff or his counsel were not present in the court on 06.12.2017 the question of supplying affidavit to counsel for the petitioner does not arise. Nothing has surfaced on the record to show that the copy of affidavit was supplied still the learned ADJ closed the right of the petitioner to cross examine PW1 and adjourned the matter for defendant's evidence on 30.05.2018.

6. In the circumstances, the order of the Trial Court dated 14.03.2018, is hereby, set aside to the extent of closing the right of the petitioner/defendant No.1 to cross examine PW1. The Trial Court shall ensure that the copy of the affidavit is supplied by the plaintiff/respondent No.1 to the petitioner. The petitioner shall be given opportunity to cross-examine PW1 on that day itself and no other date shall be given.

8. The petition is disposed of accordingly.

9. Order dasti.

VINOD GOEL, J.

OCTOBER 25, 2018/sandeep