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

+ **CM(M) 1808/2019**

ARUN KHANNA

..... Petitioner

Through: Mrs. Vaneeta Khanna, Advocate.
(M:7836845924)

versus

ARUN BATRA

..... Respondent

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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27.01.2020

CM APPL. 3110/2020

1. The present application has been moved seeking modification of order dated 20th December, 2019 to the effect that the cheque for Rs.1 crore was in fact cancelled by the Plaintiff himself and thus there was no question of it not being encashed.
2. The SPA holder of the Petitioner, who is appearing, submits that the Plaintiff himself has admitted that the cheque was cancelled and hence this fact should be recorded in the order. The crux of her submission is that the sum of Rs.1 crore was never received, irrespective of whether the cheque was cancelled or encashed and this fact was concealed both in the plaint and in the replication.
3. In view of the above, the previous order of this Court, to the effect it relates to the cheque of Rs.1 crore shall stand modified in Paras 4 and 5 as under:

*“ 4. The Defendant appears in person before this Court and submits that the Plaintiff is guilty of making fraudulent representations and concealing several facts including the fact that the cheque for Rs. 1 crore **was cancelled/ never encashed**. She further submits that the facts which were pleaded in the application under Order VII Rule 11 CPC, on both occasions, were not initially contained in the written statement, as at the time when the written statement was filed, she was not aware of the facts which were contained in the said applications under Order VII Rule 11 as also the review application. Accordingly, she prays that if the issues are framed without considering the averments made in the applications under Order VII Rule 11 CPC, it would lead to irreparable prejudice to the Defendant.*

*5..... A perusal of the plaint shows that the issuance of the cheque of Rs. 1 crore is mentioned therein and the Plaintiff's case is that only Rs.68 Lakhs has been paid by him. However, the specific mention of the cheque of Rs. 1 crore **being cancelled/ not encashed**, does not find a mention in the plaint.”*

4. No further orders are called for. Application is disposed of. The present order be uploaded as corrigendum.

PRATHIBA M. SINGH, J.

JANUARY 27, 2020

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