

\$~57-59 (*common order*)

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

+ CM(M) 395/2018, CM APPL No.13323/2018

M/S MAHARAJA WHITELINE DEVELOPERS ..... Petitioner

versus

BALRAJ MALHOTRA ..... Respondent

+ **CM(M) 399/2018, CM APPL No.13339/2018**

M/S MAHARAJA WHITELINE

DEVELOPERS PRIVATE LIMITED ..... Petitioner

versus

BALRAJ MALHOTRA ..... Respondent

+ **CM(M) 400/2018, CM APPL No.13341/2018**

M/S MAHARAJA WHITELINE DEVELOPERS ..... Petitioner

Through : Mr.J.S.Bakshi and Mr.Amitesh Singh  
Bakshi, Advocates.

versus

M/S ANKUR FINLEASE PRIVATE LIMITED ..... Respondent

Through : Mr.Anurag Bhatt, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE YOGESH KHANNA**

## ORDER

**%** **23.05.2019**

All these above three petitions are considered being connected.

CM (M) No.395/2018 (listed at Item No.57) challenges the impugned order dated 27.03.2018 passed by the learned Trial Court.

Before coming to the impugned order, let me state few facts. The respondent / plaintiff filed these three money recovery suits against the petitioner herein. In the said suits written statements could not be filed by the petitioner herein and the defence was struck off.

On 09.08.2017 PW1 was examined in chief in two suits and in the third suit the cross examination of PW1 was also concluded. The matters were adjourned to 07.02.2018 since the court was busy in recording evidence in 10 year old case.

On 07.02.2018 since all these suits were assigned by the petitioner to their new counsel, who appeared in the Court on that day with A.R of petitioner but without case files, as were not handed over by the previous counsel in time to him and explained the situation to the learned Trial Court but the opportunity of cross examination of PW1 in two suits was closed for the reason those were five years old matters and no further dates can be given. In the 3<sup>rd</sup> suit (Item 59) the application was to recall PW1 to confront with document dated 06.09.2016 was also dismissed for same reason.

It is alleged the previous counsel had omitted to look into various developments in the matter and to a settlement agreement dated 06.09.2016 arrived at between Harish Kumar, the managing director of Petitioner and one Balraj Malhotra, the respondent in all the three suits and that on receipt of Rs.5 lacs, the Plaintiff was to withdraw all the three suits, hence PW1 was to be confronted with such agreement dated 06.09.2016 (in Item 59), which prayer was not allowed.

Thus considering the facts in all three petitioners and submissions of the learned counsel for the petitioner, I fail to understand, once PW1 was allowed to be cross examined then there was no harm if the witness was allowed to be confronted with a

document viz a settlement agreement dated 06.09.2016 where in the respondent had allegedly received a sum of Rs.5.00 lacs and was obliged to withdraw all these suits and whether such settlement succeeded or not is another matter for which evidence maybe lead by the plaintiff.

Hence, all the three petitions are allowed. The petitioner is granted one more opportunity to cross examine PW1 in CM (M) Nos.395/2018 and 398/2018 as also granted an opportunity to confront PW1 with the settlement agreement dated 06.09.2016 in CM (M) No.400/2018 subject to costs of Rs.5,000/- each in all CM (Ms) payable to the learned counsel for respondents.

The petitioner be granted only one opportunity for above exercise in each suit separately and payment of above costs shall be a precondition. The parties shall appear before the learned Trial Court on 11.07.2019 i.e., the date already fixed when separate dates in each suits will be fixed by the learned Trial Court to avoid confusion.

Copy of this order be sent to the learned Trial Court/Successor Court for information and compliance.

All three petitions stands disposed of in above terms. Pending application, if any, also stands disposed of. Order *dasti*.

**YOGESH KHANNA, J.**

**MAY 23, 2019**

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