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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1437/2017 & CM APPL No.25157/2019
M/S KRISHCO GRAMIN VIKAS SANSTHA

..... Petitioner

Through : Mr.Om Prakash and Mr.Pradeep Kr
Tripathi, Advocates.

versus

M/S ITOFF SOULUTIONS

..... Respondent

Through : None.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **24.05.2019**

CM APPL No.25127/2019 is moved by the petitioner for early hearing and stay of proceedings before the learned Trial Court. The main petition is already listed for 09.07.2019.

This petition challenges the impugned order dated 24.10.2017 passed by the learned Trial Court whereby an application of the petitioner/defendant moved under Order VII Rule 10 and 11 CPC was dismissed on the ground that on an application under Order VII Rule 11 CPC, the Court only need to see the contents of the plaint and would not refer to the documents of the defendant and rightly so.

It is an admitted position after framing of the issues, the evidence of the plaintiff/respondent herein has been concluded and now the petitioner/defendant is to lead evidence. The learned Trial Court has already framed a specific issue qua territorial jurisdiction of the Court. It is settled law the issue of territorial jurisdiction is a mixed question of fact and law and evidence of parties is required to

decide the said issue. Hence it would be appropriate if the matter is finally decided by the learned Trial Court after evidence. It is made clear the learned Trial Court shall not be influenced by its own observations on merits, if any, made in the impugned order dated 24.10.2017.

Finding no force in the petition, it is dismissed accordingly. Pending application, if any, also stands disposed of. No order as to costs.

The earlier date fixed i.e. 09.07.2019 stands cancelled.

YOGESH KHANNA, J.

MAY 24, 2019

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