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

% Judgment delivered on: 12.03.2020.

+ CM(M) 272/2020

GAUTAM JINDAL

..... Petitioner

versus

M/S SUPER DISCO ISPAT PVT LTD

..... Respondent

+ CM(M) 23/2020

GAUTAM JINDAL

..... Petitioner

versus

M/S SUPER DISCO ISPAT PVT LTD

..... Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Ravi Kant Sharma with Mr. P.S. Sohal, Advs.

For the Respondent: Mr. Arun Kumar Gupta with Ms. Mansi Khurana,
Advocates.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL.1041/2020 (exemption) in CM(M) 23/2020

Exemption is allowed subject to all just exceptions.

**CM(M) 23/2020 & CM APPL.1042/2020 (stay) & CM(M)
272/2020 & CM APPL.8098/2020 (stay)**

1. Petitioner in CM(M) 272/2020 impugns order dated 25.07.2019, whereby, the application filed by the petitioner under Order 8 Rule 1A CPC seeking to place on record the original documents has been dismissed on the ground that the same were filed belatedly and the documents were not filed at the appropriate stage.

2. Petitioner/defendant by this application seeks to place on record of the Trial Court; Lorry receipts/bilties, kanta weighing slips, account statements and Form-F.

3. The Trial Court has declined to accept the application holding that there has been substantial delay in filing of the original documents and also no explanation is forthcoming with regard as to why the documents were not filed at an appropriate stage.

4. It is pointed out by the learned counsel for the petitioner that the documents were duly enumerated in the leave to defend application and also in the written statement but on account of inadvertent error and a communication gap between the petitioner and his counsel, the same could not be placed on record.

5. Further, the Petitioner in CM(M) 23/2020 impugns order dated 12.12.2019, whereby, the application of the petitioner, seeking recall of order dated 22.08.2019, whereby, the defendant/petitioner's evidence was closed, was dismissed.

6. Learned counsel for the petitioner submits that on 22.08.2019,

the petitioner and his counsel had reached the Court at 11:30 am and had even mentioned to the Court that they had just reached from Chandigarh and were in the process of getting the evidence affidavit attested and by the time the affidavit was got attested and they appeared before the Court, the evidence had already been closed. It is submitted that an application was filed on the very same day before the Trial Court seeking recall of the order and permitting the petitioner to lead evidence.

7. Learned counsel for the respondent submits that the respondent had filed the suit for recovery under Order 37 as far back in the year 2014 and 6 years have passed and substantial delay has been caused by the petitioner to the suit. He, however, submits that with a view to have expeditious disposal of the suit, he has no objection in case the impugned orders are set aside subject to terms.

8. Accordingly, in view of the above, the order dated 25.07.2019 rejecting the application of the petitioner under Order 8 Rule 1A and orders dated 12.12.2019 and 22.08.2019 are set aside subject to costs of Rs.10,000/- to be paid to the respondent on the next date before the Trial Court i.e. 23.03.2020.

9. The documents filed by the petitioner are taken on record of the Trial Court and petitioner is given an opportunity to file the affidavit of evidence of all his witnesses.

10. Learned counsel for the petitioner submits that the petitioner apart from himself intends to examine two more witnesses. He submits that affidavit of evidence of the petitioner and his witnesses shall be filed within three weeks from today.

11. Parties shall appear before the concerned Rent Controller on 23.03.2020, on which date the Trial Court shall fix an appropriate date for defendant's evidence.

12. Keeping in view the fact that the suit was filed in the year 2014, Trial Court is directed to expedite the proceedings and endeavour to conclude the same within a period of 3 months from the first date of defendant's evidence fixed by the Trial Court.

13. Petitions are, accordingly, allowed in the above terms.

14. Order *Dasti* under the signatures of the Court Master.

MARCH 12, 2020
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SANJEEV SACHDEVA, J