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

+ **C.R.P. 30/2020 & CM APPLs. 5591/2020, 5592/2020**

SHRI JAI NARAYAN PANDEY Petitioner

Through: Mr. Keshav Kumar, Proxy counsel for
Mr. Rajesh Kumar, Advocate (M-
9810953974)

versus

SHRI ANIL DUA Respondent

Through: None.

AND

+ **C.R.P. 31/2020 & CM APPLs. 5624/2020, 5625/2020**

J N PANDEY Petitioner

Through: Mr. Keshav Kumar, Proxy counsel for
Mr. Rajesh Kumar, Advocate

versus

ANIL DUA Respondent

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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11.03.2020

An advance copy of the petition is stated to have been served on the Respondent, however, none appears for the Respondent.

The Petitioner's/Defendant's (*hereinafter*, "*Defendant*") grievance is against the orders dated 29th November, 2019 and 18th December, 2019 by which the Defendant's evidence has been closed. It is submitted that the witness was unwell and hence, could not appear in the matter.

A perusal of the order dated 29th November, 2019 shows that three

opportunities were given to the Defendant and on one occasion, costs were also imposed. Though the affidavit-in-evidence has been filed, the witness has not appeared on the ground of his illness. Considering that the affidavit-in-evidence of DW-1 was filed and the only reason for non-appearance is the illness of the witness, this Court is inclined to allow the Defendant's evidence to be recorded, subject to terms.

The suit is for recovery of a sum of Rs.1,26,709/-. Considering the nature of the suit, the Defendant is permitted to lead his evidence, subject to depositing of a sum of Rs.30,000/- before the Trial Court on or before 26th March, 2020. If the deposit is made before the said date, DW-1 shall appear on 26th March, 2020 and his evidence shall be recorded, including his cross-examination. If the amount not deposited or DW-1 does not appear on the said date, no further opportunity shall be given to lead the Defendant's evidence and the matter shall proceed for final arguments on the said date.

Both petitions are disposed of in the above terms. All pending applications are also disposed of.

Dasti.

PRATHIBA M. SINGH, J

MARCH 11, 2020

Rahul