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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM (M) 1355/2019 & CM APPL. 40964/2019**

SHAKTI SINGH

..... Petitioner

Through: Ms. Kamaljot Kaur, Proxy counsel for
Mr. Yashpal Rangi, Advocate.
(M:9871818290)

versus

VIJAY KUMAR DABAS

..... Respondent

Through: Mr. Ravi Dabas, Advocate.
(M:9654203137)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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28.01.2020

1. The present petition challenges the impugned orders dated 3rd December, 2018 and 10th July, 2019 by which the Plaintiff's evidence was closed after recording the evidence of PW-1. The following order dated 3rd December, 2018 was passed by the Trial Court:

“ PW-1/ Sh. Shakti Singh is present and is further cross-examination and discharged. No other witness is present nor got summoned. In these facts, plaintiff evidence is complete.

Put up for 15.01.2019 for DE”

2. A review application was filed seeking review of the said order. The same was rejected by the Trial Court. The case of the Plaintiff is that he wishes to examine some more witnesses for proving the case for damages.

3. A perusal of the list of witnesses shows that the Plaintiff had arrayed three witnesses and only PW-1 i.e. Plaintiff was examined. The other two witnesses have not been produced before the Court. Since names of two more witnesses were already in the list of witnesses, the Plaintiff has preferred the present petition. On 13th September, 2019 the following order

was passed:

“Issue notice to the Respondent, i.e. the Defendant before the Trial Court.

The only submission of Id. counsel for the Petitioner/Plaintiff is that he wishes to lead evidence of one more witness for proving damages, which has not been permitted by the Trial Court.

Defendant be also served through counsel appearing for him before the Trial Court.

List on 28th January, 2020.

The evidence of the Defendant shall not commence till the next date.

Dasti.”

4. As per the above order, the Plaintiff wishes only one more witness for proving the case of the damages. Ld. counsel for the Defendant objects to further opportunity being granted to lead evidence. Since the names of three witnesses were already in the list of witnesses, it is deemed appropriate to give liberty to lead evidence of one more witness, as per the list of witnesses, subject to payment of Rs.15,000/- as costs to be paid to the Defendant. The evidence by way of affidavit of the said witness shall be filed within four weeks from today. The witness shall be produced before the Trial Court on the date fixed for recording of the statement and cross examination. No adjournment shall be granted. The costs shall be paid on or before the next date before the Trial Court. No further evidence shall be permitted to be led on behalf of the Plaintiff.

5. The petition along with the pending application is disposed of in the above terms.

PRATHIBA M. SINGH, J.

JANUARY 28, 2020/dk