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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 987/2022, CM APPL. 41091/2022 and CM APPL. 41092/2022

PUNJAB AND SIND BANK Petitioner
Through: Ms. Kittoo Bajaj, Adv.

versus

JOGINDER SINGH & ORS. Respondents
Through: Mr. Roshan Lal Goel and Mr. Anju Gupta, Adv. for Respondents 1 to 4

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

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22.09.2022

1. This petition under Article 227 of the Constitution of India assails orders dated 16th July 2022 and 30th July 2022 passed by the learned Additional District Judge (“the learned ADJ”) in CS (Comm) 123/2020 (*Punjab and Sind Bank v. Joginder Singh*).

2. The learned ADJ, by order dated 16th July 2022, closed the petitioner’s right to lead evidence. It was observed, in the said order, that, though issues had been framed on 7th March 2012, the plaintiff had not led till that date its evidence. Thereafter, the learned ADJ noted, the matter was adjourned on 5th March 2022, to the 30th April 2022, for the petitioner to lead evidence, during which period the petitioner moved an application for summoning the record of a CBI case from this Court, which was allowed.



3. In view of the fact that the learned ADJ deemed it appropriate to allow the application, filed by the petitioner, for summoning the record of the CBI case from this Court, the delay in conducting PE, if any, prior thereto cannot be taken into consideration.

4. After 30th April 2022, when the application dated 23rd April 2022 filed by the petitioner was allowed, the learned ADJ observed that repeated opportunities were given to the petitioner to file process fee, so that the required record could be summoned, but that the petitioner failed to do so.

5. It is in these circumstances that the learned ADJ, *vide* order dated 16th July 2022, closed PE and, *vide* order dated 30th July 2022, refused to recall the said order.

6. Ms. Kittoo Bajaj, learned Counsel for the petitioner bank, submits that the aforesaid record had, in fact, been directed by this Court, *vide* order dated 16th March 2020 in Cr. A. 1373/2013 (***Joginder Singh v. State***), to be sent back to the Court of the learned ADJ. That, she submits, has not happened till date.

7. Though she acknowledges the fact that the petitioner was probably remiss in failing to file process fee despite repeated opportunities, to summon the record of the CBI case from this Court, she submits that she had applied for certified copies of the record of the entire case, and that the certified copy of the record is ready for collection. She submits that, if it has not been obtained by her office as



yet, it would be collected during the course of the day.

8. As such, she submits that no further adjournment would be taken by her on this ground.

9. The matter is next listed before the learned ADJ on 1st October 2022.

10. In that view of the matter, without going into the issue of the delay, if any, which has been occasioned in the petitioner leading evidence, the present petition is disposed of with by granting permission, to the petitioner, to lead PE before the learned ADJ on 1st October 2022.

11. No adjournment would be sought by her on that date and the exercise of leading PE would be commenced on 1st October 2022 at all costs.

12. This petition stands disposed of in the aforesaid terms with no order as to costs. Miscellaneous applications stand disposed of.

C.HARI SHANKAR, J

SEPTEMBER 22, 2022

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