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

+ CM(M) 1050/2022 & CM APPL.43804/2022

POONAM MALHOTRA Petitioner

Through: Mr. B. Mahapatra, Adv.

versus

VISHAL GOEL Respondent

Through: Mr. Ravi Kant Chadha, Sr.Adv.
with Ms. Mansi Chadha, Adv.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER (O R A L)

27.10.2022

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1. This petition under Article 227 of the Constitution of India challenges an order dated 22nd August 2022 passed by the learned Additional District Judge (the learned ADJ) in CS DJ 10133/16 (*Vishal Goel vs. Poonam Malhotra*).

2. The opening paragraph of the impugned order reveals that the learned ADJ was seized of two applications filed by the petitioner, as Defendant 1 in the suit. One was under Order VI Rule 17 of the CPC and the second was under Order VIII Rule 10(A)(3) of the CPC.

3. The impugned order, however, while rejecting the application under Order VI Rule 17 of the CPC, does not specifically pass any order on the application under Order VIII Rule 10(A)(3), though Mr. Ravi Kant Chadha, learned Senior Counsel for the respondent submits that, with the rejection of the petitioner's application under Order VI Rule 17, the fate of the application under Order VIII Rule 10(A)(3) was pre-ordained, as the said application was merely consequential to

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the application under Order VI Rule 17.

4. Learned Counsel for the petitioner, needless to say, would dispute this contention.

5. This Court does not express any opinion on this aspect, as it would be appropriate that the learned ADJ takes a view on the application under Order VIII Rule 10(A)(3) in the first instance.

6. Accordingly, with consent of parties, this petition is disposed of with a direction to the learned ADJ to take up the application of the petitioner under Order VIII Rule 10(A)(3) of the CPC for hearing on 4th November 2022 and pass orders on the said application on the same day or as expeditiously thereafter as possible.

6. This Court has not expressed any opinion on the said application. Both sides would be at liberty to advance all submissions on the application as they deem appropriate.

7. The learned Local Commissioner before whom the matter is listed tomorrow is requested to take up the matter after 4th November 2022.

8. The petition is disposed of in the aforesaid terms.

C.HARI SHANKAR, J

OCTOBER 27, 2022/hk