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

+ C.R.P. 285/2019 & CM APPL.53111/2019 (stay)

RAJENDER SINGH

..... Petitioner

Through: Mr. Viash Rathi, Advocate.

versus

RAVINDER

..... Respondent

Through: Mr. Sanjay Gupta, Advocate.

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Date of Decision: 21st July, 2022.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. Present petition has been filed challenging the order dated 04.09.2019 in suit bearing No.CS 76394/2016 titled as *Sh. Ravinder vs. Rajender*. The learned Trial Court has granted conditional leave to defend subject to the deposit of Rs.7 lakhs.

2. Learned counsel for the petitioner submits that the petitioner is a *Safai Karamchari* and has no means to deposit Rs.7 lakhs. Learned counsel for the petitioner has submitted that the facts of the case are very peculiar in nature as the respondent/plaintiff is also a government servant and has stated to have extended the loan amount in cash.

3. Learned counsel for the petitioner submits that taking into account the totality of facts and circumstances of the case, the order dated 04.09.2019 may be modified to the extent that the condition of Rs.7 lakh is waived.



4. Learned counsel for the respondent has vehemently opposed the same. He has submitted that a bare perusal of the impugned order dated 04.09.2019 would indicate that the petitioner had issued a cheque in discharge of the liability and therefore now he cannot wriggle out of the loan and say that the loan was not given to him. Learned counsel for the respondent has submitted that the petitioner may be directed to deposit some amount of money so as to secure the interest of the respondent.

5. Learned Trial Court taking into account the facts and circumstances of the case had granted conditional leave to defend subject to the deposit of Rs.7 lakhs, i.e., 50% of the claim amount. However, learned counsel for the petitioner has submitted that he is not in a position to pay this amount.

6. Taking into account the totality of facts and circumstances of the case, let the petitioner deposit a sum of Rs.3,50,000/-. The impugned order dated 04.09.2019 is modified to the extent that the leave to defend stands granted subject to the deposit of Rs.3,50,000/- in the shape of an FDR in the name of this Court which shall be renewable periodically till the decision of the case. The FDR be deposited by 30.09.2022.

7. Accordingly, the present petition along with the pending application stands disposed of.

DINESH KUMAR SHARMA, J

JULY 21, 2022/st