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

% Judgment delivered on: 13.01.2023

+ CM(M) 53/2023

RAJENDER KUMAR GUPTA

..... Petitioner

versus

GADIWALA LOAD SERVICES PVT. LTD. & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Anant Gupta, Advocate.

For the Respondents : None.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

CM APPL. 1665/2023 (for exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The application is disposed of.

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3. Learned counsel for the petitioner impugns the order dated 02.11.2022, whereby the learned Trial Court has imposed a cost of Rs. 10,000/- for seeking adjournment for moving an appropriate application seeking amendment of the plaint.

4. Learned counsel submits that vide the order dated 26.09.2022, the learned Trial Court while considering the contents of the plaint was of the opinion that the said plaint is ambiguous in its contents and

accordingly, it deemed it appropriate to grant an opportunity to the plaintiff to amend the plaint or to remove the ambiguities and to represent the plaint in proper form.

5. Learned counsel further submits that he was engaged by the petitioner just a day prior to the impugned order dated 02.11.2022 was passed and on the said date, learned counsel sought some time to remove the ambiguities, if any, and re-file the suit in a proper form or, if required, in the form of an ordinary suit along with an appropriate application in regard thereto.

6. Learned counsel submits that the learned Trial Court imposed cost of Rs. 10,000/- while granting one opportunity to file an appropriate application.

7. It is informed by the learned counsel that an appropriate application has already been filed before the learned Trial Court on 23.12.2022 and is pending adjudication.

8. Having heard the learned counsel and in view of the fact that no notice of the suit has yet been issued to the defendant/respondent, it is deemed appropriate that no purpose would be served in issuing notice to the respondent.

9. This Court is of the opinion that the suit is at a nascent stage and any amendment or correction can be carved out and allowed by the learned Trial Court without prejudicing any one, including the defendant arrayed therein.

10. In view of the aforesaid, this Court deems it appropriate to waive the cost as imposed by the learned Trial Court and request that the learned Trial Court take up the application as filed by the learned

counsel stated to have been filed on 23.12.2022 and disposed of the same on merits in accordance with law.

11. In view of the aforesaid, nothing survives further for adjudication in the present petition, the petition is disposed of with no order as to costs.

TUSHAR RAO GEDELA, J .

JANUARY 13, 2023/nd

