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

% Judgment delivered on: 15.02.2023

+ CM(M) 148/2023

CENTRAL BANK OF INDIA

..... Petitioner

versus

M/S COSCO BLOSSOMS PRIVATE
LIMITED & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Jaswinder, Adv.

For the Respondent : Mr. Rajinder Wali, Adv.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

CM APPL. 7580/2023 (Exemption)

1. Exemption allowed subject to all just exceptions.
2. Application stands disposed of.

CM APPL. 7579/2023 (Preponement of hearing)

3. This is an application seeking preponement of hearing.
4. With the consent of the parties, the present petition is taken up for disposal today.

CM APPL. 7578/2023 (For recall of order dated 31.01.2023)

5. This is an application filed under Section 151 CPC on behalf of

respondents seeking recall of order dated 31.01.2023 passed by this Court.

6. No orders need to be passed in view of the petition itself being disposed of.

CM(M) 148/2023

7. Petitioner challenges the order dated 20.09.2022 passed in CS No. 56263/2016 titled “M/S. Cosco Blossoms Pvt. Ltd. & Anr. vs. Central Bank of India”, whereby the request of the petitioner to recall Mr. Suresh Goel, that is, PW-1 for further examination in order to enable the petitioner to confront the said witness with the letter dated 09.02.2013, was rejected.

8. The said rejection was on the basis of the statement tendered by the learned counsel appearing for the respondent/ plaintiff admitting the said letter on behalf of the respondent/ Plaintiff.

9. Mr. Jaswinder Singh, learned counsel for the petitioner submits that a mere admission of the letter dated 09.02.2013 would not suffice inasmuch as, as per the averments contained in the plaint, the respondent has termed the contents of the said letter dated 09.02.2013 as unilateral.

10. Mr. Singh further submits that there would be a requirement of not only confronting the witness with the said letter but issues incidental to the issuance of the letter as well as the subsequent correspondence issued by the petitioner would also need to be confronted to ascertain the truth of the transaction.

11. Per contra, Mr. Wali, learned counsel appearing for the respondent submits that the said document has already been exhibited in the trial as also the statement of the learned counsel was also recorded

admitting the said letter on behalf of the respondent. On that basis, Mr. Wali, learned counsel for the respondent, submits that in view of provisions of Section 58 of the Indian Evidence Act, 1872 and the document being admitted, no purpose would be served by putting the respondent to another round of cross examination.

12. Mr. Wali learned counsel appearing for the respondent also submits that PW1-Mr. Suresh Goel is over 80 years of age and is not in a healthy condition to keep appearing before the Court in person.

13. In view of the aforesaid, this Court is of the considered opinion that interests of justice would be sub-served, if the PW1-Mr. Suresh Goel appears before the learned Trial Court on 27.02.2023, stated to be the date fixed before the learned Trial Court, for further cross examination.

14. The permission so granted for the cross examination would necessarily be limited purely to the letter dated 09.02.2013 and would not go beyond the scope of the said letter.

15. Learned Trial Court is directed to ensure that no cross examination other than that which is strictly required under law for the examination pertaining to the letter dated 09.02.2013 is asked, and any question beyond that may be deleted or disallowed, in the interest of justice.

16. The cross examination will be completed on 27.02.2023 positively and no date for further cross examination will be permitted to any party whatsoever.

17. The learned Trial Court is directed thereafter to proceed in accordance with law, for hearing the final arguments of the suit.

18. In view of above directions, nothing further survives for adjudication, the present petition is disposed of with no order as to costs.

19. The next date fixed i.e. 25.07.2023 stands cancelled.

TUSHAR RAO GEDELA, J .

FEBRUARY 15, 2023

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