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

*Date of decision: 13.10.2023*

+ CM(M) 124/2023

MANISH SACHDEVA AND ANR ..... Petitioners

Through: Mr. Prashant Batra, Advocate

versus

SUSHIL SADANA ..... Respondent

Through: Mr. Amit Talwar, Advocate

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**CORAM:**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

### **J U D G M E N T**

#### **MANMEET PRITAM SINGH ARORA, J (ORAL):**

1. The present petition filed under Article 227 of the Constitution of India impugns the order dated 22.10.2022 passed by ADJ, Rohini Court, Delhi ('Trial Court') in CS DDJ 77820/2016 titled as "**Manish Sachdeva v. Sushil Sardana**" whereby, the Trial Court dismissed the Petitioner's application for summoning formal witnesses to produce record.

1.1. The Petitioners are the plaintiffs and the Respondent is the defendant in the suit filed for rendition of accounts and permanent injunction.

2. The learned counsel for the Petitioners states that the application dated 30.09.2022 is placed on record as Annexure 'D' with the present petition.

2.1. He states that the Petitioners are confining their relief for summoning the witnesses enlisted at serial nos. 1, 2 and 3 in the said application.



2.2. He states that he is not pressing for summoning of witness listed at serial no. 4. He states that the Petitioners were seeking summoning of the three (3) official witnesses only for the purpose of proving the documents which already stand exhibited by the Petitioner's witness as Ex. PW-1/3, Ex. PW-1/6 and Ex. PW-1/8. He states that in fact PW-1/3 and PW-1/6 are certified copies.

2.3. He states that it was only as a matter of abundant caution to obliterate any subsequent objection of the mode of proof that he moved this application.

2.4. He clarifies that in fact no objection of mode of proof was raised by the Respondent during the examination and cross-examination of the Petitioner and the said documents have already been entered in evidence.

3. In reply, the learned counsel for the Respondent states that he opposes the reliefs sought by the Petitioner herein as the Petitioner has delayed the proceedings which is causing grave prejudice to the Respondents.

3.1. He states that impugned order does not suffer from any infirmity and therefore, does not require any interference.

3.2. He however, confirms the submissions of the counsel for the Petitioner that Ex. PW-1/3, Ex. PW-1/6 and PW-1/8 have been entered in evidence without any objection on mode of proof.

4. This Court has considered the submission of the parties and perused the paper-book.

5. In the opinion of this Court since no objection on mode of proof has been raised by the Respondent and the documents already stand filed and given exhibit marks as Ex. PW-1/3, Ex. PW-1/6 and PW-1/8; no purpose will be served by summoning the said formal witnesses and further, no



prejudice will be caused to the Petitioner. The summoning of the formal witnesses for purpose of mode of proof is not required in the facts of this case.

6. Further, in view of the grievance raised by the Respondent that there has been a substantial delay in the proceedings before the Trial Court, it is directed that the Petitioner shall not seek any adjournment before the Trial Court and shall cooperate with the Trial Court in expeditious disposal of the suit.

7. The Trial Court is requested to exercise his jurisdiction under Order 17 Code of Civil Procedure, 1908 ('CPC') in case the Petitioner seeks unnecessary adjournment.

8. With the aforesaid direction, the present petition is disposed of. Pending application, if any, stands disposed of.

9. Interim order stands vacated.

**MANMEET PRITAM SINGH ARORA, J**

**OCTOBER 13, 2023/hp/asb**

*Click here to check corrigendum, if any*