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

% Judgment delivered on: 28.03.2023

+ CM(M) 517/2023 & CM APPL. 15394/2023

M/S ANAND GRANITE EXPORTS PVT LTD Petitioner

versus

SANJAY SHARMA

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Rahul Shukla, Adv.

For the Respondent : None.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. Petitioner is aggrieved by the fact that despite a number of hearings, the learned Trial Court has not passed the orders on the application under Order XXXVII Rule 3 (5) of the Code of Civil Procedure, 1908 (hereinafter as "CPC").
2. Learned counsel appearing for the petitioner/plaintiff submits that hearings on 22 separate dates have taken place before the learned Trial Court on the application seeking leave to defend filed by the respondent. However, no orders till date have been passed in the said application.
3. Learned counsel submits that the delay in adjudicating the said application is prejudicially affecting the petitioner/plaintiff and prays for a direction that the learned Trial Court dispose of the said application

expeditiously.

4. It is also submitted that the learned Trial Court has posted the matter on 25.04.2023 for hearing arguments on the said application.

5. The advance notice of the present petition has already been made in terms of the notification No. 69/Rules/DHC dated 05.12.2019 of this Court, in terms whereof:-

“5. Appearance on the first date of listing:-

(a) Where a Civil Miscellaneous (Main) Petition under Article 227 of the Constitution of India or Civil Revision Petition under Section 115 of the Code of Civil Procedure, 1908 is filed, any opposite party desiring to oppose any of the prayers made in such petition or in any interim application accompanying such petition shall appear personally or through counsel to make submissions as he / she may desire before the Court.

(b) In case any opposite party does not appear before the Court upon advance service of the petition, the Court may not issue any further notice to such opposite party and may pass any order(s) as it may deem fit and proper in the facts and circumstances of the case.”

6. Since the only prayer made by the petitioner in the present petition is only to direct the Trial Court to take up and dispose of the application expeditiously, no purpose would be served to seek response from the respondent/defendant in the present petition.

7. In view of the above and after perusing the order sheets of the learned Trial Court, this Court is of the considered opinion that it would be in the interests of justice that the learned Trial Court takes up the matter and disposes of the same expeditiously.

8. The number of hearings that have taken place, ordinarily would

have culminated in an appropriate order being passed.

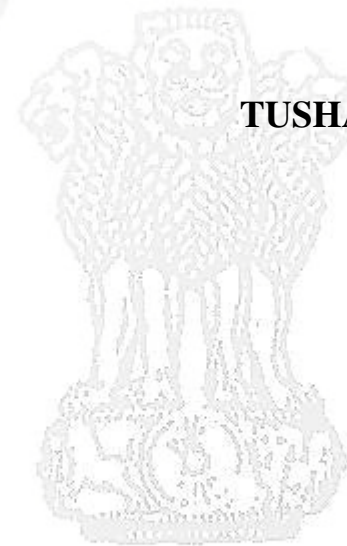
9. In view of aforesaid, this Court directs the learned Trial Court to take up the application under Order XXXVII Rule 3 (5) CPC, 1908 on 25.04.2023 and dispose of the same on 25.04.2023, or soon thereafter, but within next 15 days.

10. In view of above, the petition is disposed of with no order as to costs.

11. Pending application also stands disposed of.

TUSHAR RAO GEDELA, J .

MARCH 28, 2023/ms



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