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

% Judgment delivered on: 09.05.2023

+ CM(M) 758/2023

MR. SANJEEV KUMAR BHAKRI & ORS. Petitioners
versus

ALEMBIC LIMITED & ANR. Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Nakul Mehta, Ms. Misha Rohtagi, Mr. Bharat Monga and Ms. Riya Dhingra, Advs.

For the Respondent : Ms. Gurukamal Hora Arora, Mr. Amit Bhatnagar and Mr. Jaiswal, Advs. for R-1
Mr. Kunal, Mr. Kunal Mimani and Mr. Shubhang Tandon, Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

CM APPL. 23883/2023 & CM APPL. 23884/2023

1. Exemption is allowed, subject to all just exceptions.
2. However, the certified copies of the exempted documents may be filed within four weeks from today.
3. Applications stand disposed of.

CM(M) 758/2023 & CM APPL. 23882/2023

4. The petitioners challenge the order dated 02.05.2023 in IA No.

03/2023 in RCT No.24/2023 titled '*Sanjeev Kumar Bhakri Vs. Alembic Ltd.*' whereby the learned RCT in an application seeking early hearing has varied the stay order passed by the learned RCT on 10.04.2023.

5. Learned counsel appearing for the petitioner submits that in the garb of the early hearing application, the learned RCT could not have varied the stay order granted on 10.04.2023 without notice to the petitioner or hearing the petitioner on such variation.

6. Ms. Gurkamal, learned counsel appearing for the respondent No.1 submits that the learned RCT had passed the order for balancing the equities only and it is only on that ground that the learned RCT has permitted variation of the stay order and permitted the respondent to use the toilet which was on the ground floor /loft / mezzanine floor till the next date of hearing. The First Appeal before the learned RCT is stated to be listed on 19.05.2023.

7. In view of the aforesaid controversy, though after observing from the photographs, there appears to be two different toilets, this Court refrains from passing any observations thereon.

8. Keeping in view the urgency and the vehemence with which both parties put across their submissions in respect of the toilet, this Court is of the considered opinion that the learned RCT takes up the matter on 11.05.2023 and decide the issue in respect of the toilet and the orders be passed thereon.

9. It is made clear that the learned RCT shall not adjourn the matter for any reason whatsoever.

10. Parties are directed to appear before the learned RCT positively without fail. In case any party fails to appear, learned RCT is directed to

proceed with the hearing and pass the orders thereon.

11. The order dated 10.04.2023 is resurrected.

12. In view of the aforesaid, the petition is disposed of with no order as to costs.

TUSHAR RAO GEDELA, J .

MAY 9, 2023/ms

