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

Date of decision: 09.11.2023

+ **CM(M) 927/2023 & CM APPL. 58331/2023**

M/S BLJ RESOURCES AND CHEMICALS PVT LTD

..... Petitioner

Through: Ms. Sonal Anand and Ms. Surbhi Singh, Advocates

versus

STATE NCT OF DELHI AND ANR

..... Respondents

Through: Mr. Anmol Mehta, Advocate (through VC)

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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):

CM APPL. 58332/2023 (for early hearing)

1. This is an application seeking early hearing in this petition. The learned counsel for the Respondent has entered appearance.

2. With the consent of the parties, the matter is taken up on board today for disposal.

3. Accordingly, the application stands allowed.

CM(M) 927/2023 & CM APPL. 58331/2023

4. The present petition filed under Article 227 of the Constitution of



India impugns the order 09.05.2023 passed by the Additional District Judge – 04, North-West, Rohini Court, New Delhi in CS DJ No.78104/2016, titled as **M/s. BLJ Resources and Chemicals Private Limited Vs. Standard Chartered Bank** (‘Trial Court’) whereby the Trial Court has closed the right of the Petitioner herein to cross-examine the Defendant Witness i.e., DW-1.

4.1 The Petitioner has therefore filed the present petition seeking an opportunity to cross-examine the Defendant Witness i.e., DW-1.

5. The Petitioner is the original plaintiff and the Respondent is the original defendant in the civil suit. The civil suit was filed for recovery of Rs. 23,59,560/- along with damages of Rs. 5,00,000/-

6. The learned counsel for the Petitioner, at the outset, states that he regrets his non-appearance before the Trial Court on 09.05.2023. He states, however, the order of the Trial Court closing the Petitioner’s right to cross-examine DW-1 shall cause great prejudice to the Petitioner herein.

6.1 He states that the Petitioner undertakes to be duly represented by its counsel before the Trial Court on dates fixed by the Trial Court for evidence of DW-1 and conclude DW-1’s cross-examination in a timely manner.

6.2 He states that the Petitioner is willing to pay legal costs to the Respondent herein to compensate for the delay caused in completion of DW-1 cross examination.

7. The learned counsel for the Respondent states that there is no infirmity in the order of the Trial Court which would warrant any supervisory interference or correction in exercise of Article 227 jurisdiction of this Court.

8. This Court has considered the submissions of the parties and perused



the record.

9. The defendant's witness DW-1 was present before the Trial Court on 09.05.2023 and the plaintiff was scheduled for cross-examining the witness. However, it is undisputed that on the said date of hearing i.e., 09.05.2023, it was the first appearance of DW-1 and, therefore, this Court is of the opinion that a further opportunity should be granted to the Petitioner so that the testimony of DW-1 can be tested in cross-examination albeit on strict terms.

10. The aforesaid opportunity is being granted to the Petitioner subject to payment of legal costs of Rs. 10,000/- to the Respondent on or before 08.12.2023 before the Trial Court for the delay caused in conclusion of evidence.

11. The suit is listed before the Trial Court on 08.12.2023. It is directed that the Petitioner will begin cross-examination of the witness on 08.12.2023, or the next date fixed by the Trial Court, and complete the cross-examination without undue delay.

12. The Petitioner has given an undertaking to this Court that Petitioner will not seek any further unnecessary adjournments before the Trial Court and will ensure that Petitioner remains duly represented through a counsel on each date of hearing to co-operate in the expeditious disposal of the trial.

13.1. The said statement is taken on record and the Petitioner is bound down to the same.

13. Accordingly, the impugned order dated 09.05.2023 is set aside on the aforesaid terms.

14. It is made clear that if the Petitioner fails to comply with the aforesaid terms, then the liberty granted by this order with respect to cross-examine the Defendant Witness i.e., DW-1 shall stand revoked and defendant



evidence will remain closed in terms of the impugned order dated 09.05.2023.

15. With the aforesaid directions, the present petition is allowed and the Petitioner herein is granted final opportunity to cross-examine the Defendant Witness i.e., DW-1 diligently.

16. Pending Applications, if any, shall stand disposed of.

17. It is stated by the counsel for the Respondent that the witness (DW-1) is stationed in Mumbai, therefore, the Respondent shall inform the Petitioner in advance by email on or before 01.12.2023, if it is convenient for the witness to remain present on 08.12.2023 i.e., the next date of hearing before the Trial Court. The said statement is taken on record.

NOVEMBER 9, 2023/rk/ms

MANMEET PRITAM SINGH ARORA, J

Click here to check corrigendum, if any