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

Date of decision: 17.08.2023

+ CM(M) 1137/2023 & CM APPL. 36722/2023

M/S NOIR FASHIONS PVT. LTD. Petitioner

Through: Mr. Naresh Gupta and Mr. Rachit Gumber, Advocates.

versus

NISHIMA SUARABH PATHAK Respondent

Through: Mr. Rishi Sood and Mr. Prafull Singh Chandel, Advocates.

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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. This petition filed under Article 227 of the Constitution of India impugns the order dated 02.06.2023 passed by District Judge, Commercial Court-04, Central District, Tis Hazari Courts, Delhi ('Trial Court') in CS (COMM.) No. 3841/2021, titled as *M/s Noir Fashions Pvt. Ltd. v. Nishima Suarabhi Pathak*, dismissing the application filed by the Petitioner under Order 11 Rule 1 (5) of the Code of Civil Procedure ('CPC') for placing on record additional documents along with the replication.

1.1 The Petitioner herein is the Plaintiff and the Respondent is defendant in the commercial suit.

2. The learned counsel for the Petitioner states that the replication was filed on 04.08.2022 within the time granted by the Trial Court and along with



the replication, the Respondent sought to place on record documents to answer the case set up by the defendant in the written statement. He states that no stand contrary to the case set up in the plaint is sought to be raised by filing these documents.

2.1 He states that the documents filed by the plaintiff along with the replication can be taken on record. He relies upon the judgments of this Court in ***Mahesh Chaudhri & Ors. v. IMV India Pvt. Ltd., 2019: DHC:3698, Hassad Food Company Q.S.C. & Anr. v. Bank of India & Ors., 2019: DHC:5253, Khurmi Associates (P) Ltd. v. Maharishi Dayanand Co-operative Group Housing Society, 2022 SCC OnLine Del 1011 and Bennett Coleman & Co. Ltd. v. ARG Outlier Media Pvt. Ltd. & Ors., 2023 SCC OnLine Del 1457.***

3. In reply, learned counsel for the Respondent states that the Respondent herein is concerned that it shall have no opportunity to deal with the said additional documents at this stage of the proceedings as its (defendant's) right to file documents already stands closed. He states that merely by filing an affidavit of admission denial of documents, Respondent will not be able to rebut the said documents. He states that if the Respondent is given an opportunity of filing its own documents to counter these additional documents, he has no objection if this application filed by the Petitioner is allowed.

4. In response, learned counsel for the Petitioner states that he has no objection if the Respondent herein as well is granted an opportunity to file additional documents to rebut the documents which the Petitioner seeks to bring on record.

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



the record.

6. In view of the statement made by the parties and in view of the judgments of this Court noted above and more specifically ***Bennett Coleman*** (*supra*), the impugned order dated 02.06.2023 is set aside with the consent of the parties on the following conditions:

- (a) The documents filed by the Petitioner along with the replication dated 04.08.2022 are directed to be taken on record.
 - (b) The Respondent will file its affidavit of admission denial of the Petitioner's additional documents directed to be taken on record by this order, on or before 31.08.2023.
 - (c) The Respondent will file its own documents to counter the said documents on or before 31.08.2023.
 - (d) The Petitioner will file its affidavit of admission denial of the additional documents filed by the Respondent within a period of two (2) weeks from receipt of the additional documents.
 - (e) Neither party will be granted any extension of time.
7. With the aforesaid directions, the present petition is allowed.
8. The pending application stands disposed of.

न्यायमेव जयते

MANMEET PRITAM SINGH ARORA, J

AUGUST 17, 2023/msh/sk

Click here to check corrigendum, if any