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

% Judgment delivered on: 04.01.2023

+ CM(M) 769/2022 and CM No.34044/2022

JASMEET SINGH

..... Petitioner

Versus

ICICI BANK LTD

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Amit Jagga, Advocate

For the Respondents : Mr. Shailendra Babbar, Mr. Avinash Das and
Mr. Tanmay Chaudhary, Advocates

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. Petitioner challenges the order dated 21.07.2022 whereby the learned Trial Court had directed that the power of attorney of the witness (PW-1) who was the Authorised Representative of the Respondent be taken on record and a fresh affidavit of evidence be filed subject to costs of Rs.3,000/-.

2. Learned counsel submits that simultaneously, by way of the impugned order, learned Trial Court had also directed that the evidence which has already been recorded shall not be read against the Defendant.

3. Learned counsel submits that the learned Trial Court could not have passed the said directions since the vital issues which support the contention of the Petitioner have been diluted in the aforesaid manner and which is to the detriment of the Petitioner.

4. Mr. Babbar, who appears for the Respondent, submits that the witness who had appeared and was cross-examined by the Petitioner was already an Authorised Representative of the Respondent and it is only by way of correction that the power of attorney of the said witness was being sought to be brought on record.

5. Mr. Babbar further submits that filing of the fresh affidavit would in no way obstruct the Petitioner from conducting cross-examination and addressing all the relevant issues that the Petitioner may be aggrieved of.

6. This Court has perused the impugned order as also heard the contentions raised by the parties.

7. After some arguments, learned counsel appearing for the parties consent to the following directions :-

(a). The Direction of the learned Trial Court in the penultimate paragraph to the extent that the evidence which has already been recorded of PW-1 shall not be read against the Defendant (Petitioner), would stand expunged from the impugned order.

(b). The affidavit, if any, filed on behalf of the Respondent pursuant to the impugned order shall not be taken on record. The Respondent is permitted to file a fresh affidavit or an additional affidavit in support of

the power of attorney which was permitted to be filed by way of the impugned order and only to that extent.

(c). The earlier affidavit of evidence filed on behalf of the Respondent of PW-1 exhibited and marked as PW1/A shall be read as the original affidavit in evidence coupled with the aforesaid additional evidence.

(d). The Petitioner is permitted to cross-examine PW-1 on the date already fixed i.e. 05.01.2023 before the learned Trial Court on all aspects of the suit.

8. In view of the above, the petition along with pending application stands disposed of.

9. Dasti under the signatures of the Court Master.

TUSHAR RAO GEDELA, J .

JANUARY 4, 2023/yg