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

Date of decision: 18.08.2023

+ **CM(M) 1232/2023 & CM APPLs. 39320/2023, 39321/2023**

BELA CREATIONS (P) LTD

..... Petitioner

Through: Mr. V.S. Dubey and Mr. Mandeep Kumar, Advocates

versus

K. D. LACE HOUSE

..... Respondent

Through: Mr. Ashwani Kumar, Advocate

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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 order is being passed in continuation to the earlier order dated 03.08.2023.
2. Mr. Ashwani Kumar, Advocate, enters appearance on behalf the Respondent.
 - 2.1. He states that the Petitioner herein has been negligent in defending the suit proceedings and has sought adjournments on several dates, on one pretext or the other.
 - 2.2. He states that the Trial Court had given sufficient opportunities to the Petitioner and it was after the Petitioner failed to avail the last opportunity granted vide order dated 15.03.2023 that the Trial Court was compelled to pass the impugned order dated 24.05.2023.
3. In response, the learned counsel for the Petitioner states that the



Petitioner has explained the circumstances in which the witness Mr. Raj Tomar could not be present. He states that no other witness is proposed to be led in the matter.

3.1. He states that the Petitioner undertakes that the witness shall remain present before the Local Commissioner for tendering his evidence and cross examination on the dates fixed by the Local Commissioner and will not seek any adjournment.

3.2. He states that Petitioner is also willing to pay legal costs for compensating the Respondent for the delay caused in recording of evidence.

4. This Court has considered the submissions of the parties. As noted above, this order is being passed in continuation of the order dated 03.08.2023.

5. With the consent of the parties, the Petitioner is permitted to lead the evidence of Mr. Raj Tomar as DW-1 on 22.08.2023 at 02:30 PM before the Local Commissioner.

6. The statement of the Petitioner that Mr. Raj Tomar will remain present before the Local Commissioner for recording of evidence on each date until cross examination is completed and he is discharged is taken on record and he is bound down to the same.

7. The Local Commissioner is requested to hear and conclude the recording of evidence of defendant witness preferably within a period of one (1) month from 22.08.2023.

8. The undertaking of the Petitioner that no adjournment will be sought before the Trial Court as well as local commissioner and he shall cooperate in the expeditious disposal of the suit is also taken on record.

9. It is further directed that if there is any default by witness Mr. Raj



Tomar in presenting himself for recording of his evidence and cross examination, the Petitioner's right to lead evidence shall stand closed by the Local Commissioner without granting him any further opportunity.

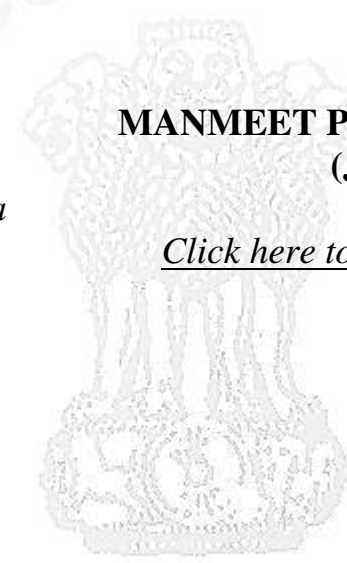
10. The Petitioner is directed to pay the costs of Rs. 10,000/- imposed by the impugned order dated 24.05.2023 and in addition, pay the costs of Rs. 15,000/- to the Respondent, on or before 22.08.2023.

11. With the aforesaid directions, the present petition is disposed of. Pending applications shall also stand disposed of.

MANMEET PRITAM SINGH ARORA
(JUDGE)

AUGUST 18, 2023/rhc/aa

[Click here to check corrigendum, if any](#)



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