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

Date of decision: 15.09.2023

+ CM(M) 1496/2023 & CM APPLs. 47702/2023, 47703/2023

PRADEEP KUMAR

..... Petitioner

Through: Mr. Kunal Manav, Advocate

versus

BUOYANT LOGISTICS PVT. LTD

..... Respondent

Through: Mr. Karan Singh Tanwar, Advocate
with AR

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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. 47703/2023 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

CM(M) 1496/2023 & CM APPL. 47702/2023

1. The present petition filed under Article 227 of the Constitution of India impugns the order dated 17.08.2023 passed by the District Judge, Dwarka Court, Delhi ('Trial Court') in CS(COMM) No. 76/2023 titled as "**Buoyant Logistics Pvt. Ltd. v. Pradeep Kumar**" whereby, the Trial Court has taken the Petitioner's written statement off the record in view of the wilful non-compliance of the Petitioner in depositing the costs as directed by the Trial Court *vide* order dated 17.07.2023.



1.1. The Petitioner herein is the defendant and the Respondent herein is the plaintiff before the Trial Court. The suit has been filed for recovery of Rs. 5,40,000/- against the Petitioner.

2. At the outset, the learned counsel for the Petitioner states that the Petitioner will forthwith deposit the costs imposed by the Trial Court vide order dated 17.07.2023.

2.1. In reply, the learned counsel for the Respondent states that without prejudice to his rights and submissions he has no objection if the Petitioner's defence is taken on record subject to the Petitioner being saddled with costs for wilfully not complying with the orders of the Trial Court. He states that he has already filed his replication to the written statement and infact issues also stand framed on 17.07.2023.

2.2. The matter was passed over to enable the Petitioner to show his bonafide by deposit the costs as per order dated 17.07.2023 and make payment of further costs of Rs. 3,000/- to the Respondent.

3. At the second call, the learned counsel for the Petitioner states that the costs of Rs. 3,000/- have been deposited with District Legal Services Authority ('DLSA') and he has shown the proof of the said deposit. He is directed to file the same before the Trial Court.

3.1. He states that he has paid additional costs of Rs. 3,000 to the counsel for the Respondent which has been acknowledged by the latter.

4. Accordingly, with the consent of the parties the impugned order dated 17.08.2023 is set aside and the Petitioner's written statement is directed to be taken on record.

5. The learned counsel for the Respondent states that since issues were framed on 17.07.2023; the Respondent's witness i.e., PW-1 has filed his



examination in chief on all the said issues.

5.1. He states that he does not wish to amend the affidavit of evidence of PW-1 and he has no objection if the defendant is permitted to further cross examine PW-1, since his written statement has now come on record.

5.2. He states on instructions that PW-1 will remain present in Trial Court on the next date of hearing i.e., 26.09.2023 for cross examination.

6. In reply, the learned counsel for the Petitioner states that he will complete the further cross examination of PW-1 on 26.09.2023.

6.1. He states that he will file the affidavit by way of evidence of the witnesses which the defendant proposes to examine on or before 26.09.2023.

7. The said statement of the counsel as recorded above is taken on record. The Petitioner is granted permission to file his affidavits of evidence before 26.09.2023.

8. With the aforesaid directions, the present petition is dismissed. Pending application stand disposed of.

MANMEET PRITAM SINGH ARORA, J
SEPTEMBER 15, 2023/msh/asb