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

*Date of decision: 31.10.2023*

+ **CM(M) 1515/2023, CM APPL. 48174/2023 & CM APPL. 48175/2023**

**RAJEEV CHETAL**

..... Petitioner

Through: Mr. Pritish Sabharwal, Advocate

versus

**HONEY KANSAL**

..... Respondent

Through: Ms. Uma Aggarwal, Advocate and  
Mr. Pulkit Aggarwal (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):**

1. This order is being passed in continuation of the earlier orders dated 18.09.2023 and 17.10.2023.

2. The learned counsel for the Petitioner states that legal costs of Rs. 35,000/- (25,000+10,000) has been handed over to the counsel for the Respondent by way of demand drafts.

2.1. He states that revised affidavits of witness have also been served on the counsel for the Respondent.

3. In reply, the learned counsel for the Respondent states that she has two-fold objections to the affidavits of witness.

3.1. She states that two additional documents PW-1/1 and PW1/2 have been filed without seeking leave of the Trial Court. She further states that the averments made in paragraph 5, 6 and 7 of the evidence affidavit of Rajeev



Chetal are beyond the pleadings.

3.2. She states that she does not wish to file a replication to the written statement.

4. In reply, the learned counsel for the Petitioner states on instructions that he is withdrawing the documents marked as Exhibit PW-1/1 and PW1/2.

4.1. He further, states that the averments made at paragraph 5, 6 and 7 of the evidence affidavit is in conformity with the pleadings.

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

6. The statement of Petitioner at paragraph 4 is taken on record and Petitioner is bound down to the same. The said documents shall not form part of the Trial Court record and are struck off.

7. Petitioner will file the evidence affidavit before the Trial Court without the said documents and have after striking off reference to the said documents from its affidavit.

8. The issue with respect to the averments made in paragraphs 5, 6 and 7 of evidence affidavit, as to whether the same are in conformity with the pleadings will be decided by the Trial Court at the appropriate time in accordance with law, with liberty reserved to the Respondent to raise all arguments in accordance with law.

9. With the consent of the parties, the following directions are being passed.

9.1. The Trial Court is requested to take the written statement of the Petitioner as well as the evidence affidavits of the Petitioner's witnesses on record and proceed to frame the issues in said proceedings.

9.2. The Respondent, plaintiff will be at liberty to lead fresh evidence on behalf of the plaintiff and to that extent parties agree that the ex-parte evidence



of PW-1 will be lead afresh and the evidence already lead by PW-1 will be struck off from the records.

9.3. Further proceedings in the suit will be taken in accordance with law.

10. The Petitioner i.e., defendant undertakes before this Court that he will not seek any adjournment before the Trial Court and will be duly represented on each date of hearing.

10.1. The Trial Court is requested to exercise its jurisdiction under Order 17 CPC, in case, the Petitioner seeks unnecessary adjournment.

10.2. It is clarified that in case, the Petitioner i.e., defendant fails to defend the suit in the derogation of the undertaking given to this Court, the Trial court will be at liberty to strike off the defence of the defendant.

11. With the aforesaid directions, the present petition stands disposed of.

**MANMEET PRITAM SINGH ARORA**  
**(JUDGE)**

**OCTOBER 31, 2023/rk/asb**

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