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

Date of decision: 23.11.2023

+ **CM(M) 1106/2022 & CM APPL. 44968/2022**

SAURABH BANSAL

..... Petitioner

Through: Mr. Rupesh Kumar, Adv.

versus

NITIN GUPTA

..... Respondent

Through: Mr. Abhishek Kumar, Adv.

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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 impugns the order dated 31.08.2022 passed by Additional District Judge-02, Shadara, Karkardooma Courts, Delhi ('Trial Court') in Civil Suit No. 436/2016 titled **Nitin Gupta vs. Saurabh Bansal** dismissing the application filed by the Petitioner under Order IX Rule 7 CPC.
2. The Trial Court vide order dated 15.07.2022 closed the right of the Petitioner to cross-examine PW-1 and proceeded ex-parte against the defendant. The Petitioner filed an application on the same date for setting aside the ex-parte order; however, the said application has been dismissed by the impugned order dated 31.08.2022.



2.1. The Petitioner is the defendant and the Respondent is the plaintiff. The suit has been filed for recovery of a sum of Rs. 7,00,000/- + interest.

3. At the outset, learned counsel for the Respondent states that he has no objection if the petition is allowed, subject to the Petitioner being put to strict terms with respect to his future participation in the trial and payment of legal costs for the delay caused.

4. In reply, learned counsel for the Petitioner states that he shall tender costs of Rs. 10,000/- and cooperate in the expeditious disposal of the suit.

5. With the consent of the parties, the present petition is allowed subject to the following directions: -

5.1. The Petitioner shall pay costs of Rs. 10,000/- to the Respondent on or before 03.12.2024.

5.2. The Petitioner will complete the cross-examination of PW-1 on the next date fixed by the Trial Court without seeking any adjournment or accommodation.

5.3. An adjournment will be sought jointly before the Trial Court on 25.11.2023, with the request to fix the next date of hearing for the cross-examination of PW-1.

5.4. The Petitioner will file the proposed list of witnesses on the next date of hearing fixed by the Trial Court.

5.5. The Petitioner will be duly represented through a counsel on each date of hearing and not seek any adjournment or accommodation. It is directed that if the Petitioner fails to appear through its counsel, the learned Trial court will be at liberty to close the defendant's evidence as per its discretion.

6. This direction at para 5.5 has been issued in view of the past record of the proceedings including the order dated 12.02.2020 passed in CM(M) No.



175/2020 and the impugned order dated 31.08.2022. The Petitioner is cautioned to remain diligent in defending the suit considering his past record of default in this matter.

7. The learned counsel for the parties undertakes to comply with the aforesaid directions.

8. The petition is allowed in the aforesaid terms. Pending applications shall stand disposed of. Interim order dated 17.10.2022 stand vacated.

MANMEET PRITAM SINGH ARORA, J
NOVEMBER 23, 2023/rhc

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