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

Date of decision: 30.10.2023

+ **CM(M) 1621/2023**

MR PIYUSH AWASTHI

..... Petitioner

Through: Mr. N.U. Ahmed and Mr. Devender
Kumar, Advocates

versus

M/S GOD PLUS GLASS INDUSTRY LIMITED

..... Respondent

Through: Mr. Shyam Sunder Dalal, Advocate
(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):

CM APPL. 51299/2023(for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

CM APPL. 51300/2023(for stay) & CM(M) 1621/2023

1. Mr. Shyam Sunder Dalal, Advocate enters appearance on behalf of Respondent. He states that he has instruction to accept the legal costs of Rs. 15,000/- as recorded in the order dated 05.10.2023 passed by this Court.
2. The matter was passed over to enable the Petitioner to remit the said amount through bank transfer to the Respondent; and the Petitioner states that same has been done during the course of hearing.



3. This Court has considered the submissions of the learned counsel for the parties and perused the record.
4. In view of the proceedings recorded on 05.10.2023, this Court is of the opinion that the impugned order dated 26.08.2023 does not suffer from any infirmity since in the facts of this case, undoubtedly, the Petitioner herein has been negligent in conducting the proceeding before the Trial Court.
5. However, considering the fact that Petitioner herein could not appear due to his mother's ailment and since his non-appearance before the Trial Court on the said date has been reasonably explained, this Court deems it appropriate in the interest of justice that the matter is decided on the merits of the defence raised by the Petitioner herein.
6. Accordingly, with the consent of the parties, the order dated 26.08.2023 passed in the commercial suit bearing no. CS COMM 4/2022 is set aside on the following terms:
 - 6.1. The Petitioner who is to be examined as DW-1 will remain present before the Trial Court on 16.11.2023 and on each successive dates until his examination and cross-examination is completed and the witness is discharged.
 - 6.2. The statement of the counsel for the Petitioner made before this court and as recorded in the order dated 05.10.2023 that he only proposes to lead evidence of a single witness i.e., DW-1 and no further witness is taken on record and he is bound down to the same.
 - 6.3. The parties undertake to this Court that they will not seek any adjournments before the Trial Court and will ensure that they remain duly



represented through a counsel on each date of hearing to co-operate in the expeditious disposal of the trial.

7. With the aforesaid directions, the present petition is allowed and the Petitioner herein is granted final opportunity to lead his evidence diligently.

8. It is made clear that if the Petitioner fails to appear for his examination and cross-examination as undertaken before this Court and in terms as directed above, then the liberty granted by this order with respect to his right to lead evidence shall stand forfeited and the and the order dated 26.08.2023 shall become operational.

9. Pending application is also disposed of.

MANMEET PRITAM SINGH ARORA, J

OCTOBER 30, 2023/hp/ms

Click here to check corrigendum, if any