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

Date of decision: 31.10.2023

+ **CM(M) 1627/2023, CM APPL. 51337/2023 & CM APPL. 51338/2023**

M/S AIRMEN ENGINEERS & ANR. Petitioners

Through: Ms. Isha Bhalla, Advocate

versus

POWER WIND LTD. Respondent

Through: Mr. Akshay Goel and Mr. Paras Arora, Advocates

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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. 51338/2023 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

CM(M) 1627/2023, CM APPL. 51337/2023

1. This order is being passed in continuation of the earlier order dated 05.10.2023.
2. The learned counsel for the Petitioner states that an affidavit of the Petitioner dated 12.10.2023 undertaking to forgo the claim for pendente lite interest from 27.04.2022 to 17.10.2023 has been filed. She states that she is



carrying a pay order for the legal costs of Rs. 15,000 drawn in favour of the Respondent. She, therefore, prays that a final opportunity be granted to the Petitioner for leading plaintiff's evidence.

3. The learned counsel for the Respondent has entered appearance. He states that he has instructions to state that in view of the terms set out in order dated 05.10.2023, he has no objection if the Petitioner is granted a last opportunity to lead plaintiff evidence on strict terms. He clarifies that the pay order has been drawn in the erstwhile name of the Respondent whereas the existing name of the Respondent is 'RK Wind Limited'. He states that the memo of parties in this petition does not record the name of the Respondent correctly.

4. In reply, learned counsel for the Petitioner states that a fresh pay order for Rs. 15,000/- bearing the correct name of the Respondent along with a copy of the affidavit dated 12.10.2023 filed before this Court will be handed over to the counsel for the Respondent within five (5) days. The said statement is taken on record.

4.1. She states that plaintiff witness-1 ('PW-1') is the sole witness proposed to be examined by the plaintiff and the said statement is taken on record.

5. Accordingly, with the consent of the parties, the orders dated 10.11.2022 and 06.06.2023 are set aside and the plaintiff witness i.e., PW-1 is directed to remain present before the Trial Court on 07.12.2023 for recording of evidence in terms of the directions recorded in order dated 05.10.2023.

6. The Petitioner is directed to place a copy of the affidavit dated 12.10.2023 before the Trial Court and the learned Trial Court is requested to



pass a formal order recording the waiver of the claim of pendente lite interest by the plaintiff for the period 27.04.2022 to 17.10.2023.

7. The Petitioner has undertaken before this Court that the plaintiff will be duly represented through counsel before the Trial Court and no unnecessary adjournment will be taken. The said statement is taken on record and the plaintiff is bound down to the same. The Trial Court is requested to exercise its jurisdiction under Order 17 CPC in the event, the plaintiff fails to comply with this undertaking.

8. With the aforesaid directions, the present petition is disposed of.

9. Pending application stands disposed of.

MANMEET PRITAM SINGH ARORA, J

OCTOBER 31, 2023/msh/sk

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