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

Date of decision: 06.11.2023

+ **CM(M) 1647/2023 & CM APPL. 52126/2023 (stay)**

RAM PRAKASH ANEJA

..... Petitioner

Through: Mr. Gaurav Kumar Singh, Advocate
through video conferencing.

versus

RAMESH LAL ANEJA (DECEASED) THROUGH LRS AND ORS

..... Respondents

Through: Mr. Ashim Vachhar, Standing
Counsel for DDA with Mr. Vinayak
Uniyal, Advocate.

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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 filed under Article 227 of the Constitution of India impugns the order dated 17.08.2023 passed by the ADJ-04, North West, Rohini Courts, Delhi ('Trial Court') in CS DJ 578326/2016, whereby the Trial Court closed the evidence of the defendant i.e., the Petitioner herein.

1.1. The Petitioner herein is the defendant no.1 and the Respondent No.1 is the plaintiff before the Trial Court.

2. The learned counsel for Respondent no. 1(ii) and Respondent no. 1(iii) is present. He states that Respondent no. 1(ii) and Respondent no. 2 are the same person.



2.1 He states that the said Respondents have no objection if last opportunity to lead evidence is granted to the Petitioner herein on the terms set out in the order dated 09.10.2023 passed in this petition.

2.2 He states that, however, the Petitioner herein has been served upon the list of witnesses dated 12.10.2023 which incorrectly reads as list of documents.

2.3 He further states that in this list of the Petitioner the documents sought by the Petitioner from Laxmi Commercial Bank are of the year 1983 which consequently is beyond the period of eight (8) years, and it is unlikely that the old record would be still available with the bank.

2.4 He states that in order to ensure that trial is not prolonged unnecessarily, the petitioner be restricted to the time and opportunities within which he must complete his evidence.

3. None appears on behalf of Respondent no. 1(i) and Respondent no. 3 despite service.

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

5. This order is being passed in continuation of the order dated 09.10.2023 passed earlier in this petition. The Petitioner shall remain bound by the statements recorded in order dated 09.10.2023.

5.1 The Petitioner is granted last opportunity to lead his evidence subject to payment of costs of Rs.20,000/- to the legal heirs of Respondent no. 1 and to Respondent no. 2 on or before 16.11.2023. The Petitioner shall remain duly present before the Trial Court on 16.11.2023 and on all subsequent dates until his examination and cross-examination is complete and discharged.

5.2 Further, the Petitioner will take appropriate steps before Trial Court for examination of the witnesses enlisted in the list of witnesses dated



12.10.2023, on 16.11.2023, and it is directed that not more than two (2) opportunities will be granted to the Petitioner to summon the witnesses enlisted. This direction is being passed in view of the submission of the Respondents qua the possible unavailability of the bank records.

6. It is made clear that if the defendant(s) fail to avail of the opportunity granted by this Court vide this order, the right of the Petitioner to lead evidence shall stand closed without any further clarification.

7. It is directed that the Respondent No. 4 shall remain bound by the statement recorded in the order dated 09.10.2023.

8. With the aforesaid directions and consent of the counsel for parties present in Court, the petition stands disposed of.

9. Pending application if any stands disposed of.

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 6, 2023/ak/sk