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

Date of decision: 13.12.2023

+ CM(M) 1685/2023

MEETU HANS

..... Petitioner

Through: Mr. Ansh Singh Luthra, Mr.
Harmanpreet Singh Kohli, Mr.
Madhav Kumar and Ms. Nikhar
Luthra, Advocates

versus

AMAN GUPTA & ANR.

..... Respondents

Through: Ms. Payal Jain, Advocate for R-1

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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 04.10.2023 passed by the Additional District Judge-01, South West District, Dwarka Courts, Delhi in CS DJ No. 54/2023 titled as **Aman Gupta vs. Meetu Hans & Anr** ('Trial Court') whereby the Trial Court dismissed three (3) separate applications filed by the Petitioner herein under (i) Order VII Rule 11 read with Section 151 of Civil Procedure Code, 1908 ('CPC'); (ii) Section 17(1)(d) and Section 49 of the Registration Act, 1908 read with Sections 33 and 35 of Indian Stamp Act, 1899 read with Section 151 of CPC; and (iii) Order VIII Rule 1 of CPC.



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

1.1. Respondent no. 1 has filed the suit against the Petitioner and Respondent 2 herein seeking a decree for recovery of Rs. 25,55,000/-; for mandatory injunction directing the Petitioner to remove her entire belongings from the property i.e., B1C/3B, 1st Floor, Janakpuri, New Delhi – 110058 ('suit property'); permanent injunction restraining the Petitioner from taking the possession of the suit property and creating third party interest in the said property; for damages, if any occurred to Respondent no. 1 as well.

2. The Trial Court vide order dated 04.10.2023 dismissed the said applications of Petitioner, which read as under: -

"Proxy counsel for Sh. Ansh Singh Luthra Advocate has filed three applications one u/o 7 rule 11 CPC, 17 (a) D and 49 Registration Act and order 8 rule 1 CPC, however, he has stated that he is only a proxy and none of the main counsel is available to argue on the applications.

After arguing on the applications for more than two hours, the counsel for the applicant/D1 has stated that he is only a proxy counsel and none of the five advocates who have signed the vakalatnama are available today.

On perusal of order dated 31.07.2023, it is noticed that defence of the defendants is already struck off. Precious judicial time has been wasted by filing of these lengthy applications. All the three applications are not maintainable as the defence has already been struck off. All the three applications are hereby dismissed subject to payment of cost of Rs. 5000/.

Case adjourned to 15.07.2024 for plaintiff's evidence."

3. Learned counsel for the Petitioner states that Mr. Madhav Kumar, who appeared before the Trial Court on 04.10.2023 is an associate counsel of Mr. Ansh Singh Luthra, Advocate and is duly authorised and competent to address arguments on each of the said applications filed by the Petitioner.

3.1. He states that the impugned order passed by the Trial Court is a non-



speaking order. He states that the applications are maintainable despite the order striking off the defence. He, therefore, prays in this petition that the learned Trial Court be directed to pass a speaking order dismissing each of the applications, so that he can avail his remedy in accordance with law.

4. In reply, learned counsel for the Respondent No. 1 states that without admitting that there is any merit in the applications filed by the Petitioner, she states that she has no objection if the direction as prayed for by the Petitioner herein is granted. She states that Petitioner should be directed to remain present in person as there were queries of the Trial Court which the counsel was unable to answer at hearing dated 04.10.2023.

5. This Court has heard the learned counsel for the Petitioner and Respondent No. 1 as well as perused the record.

6. Mr. Madhav Kumar, Advocate is present before this Court. In view of the submissions of the counsel for the Petitioner that Mr. Madhav Kumar was duly authorized to address submissions on 04.10.2023; this Court is of the opinion that the three (3) applications cannot be dismissed on the grounds set out in the impugned order.

7. Accordingly, the impugned order is set aside and to ensure that the suit is not prolonged, learned Trial Court is requested to take up this matter on any date after 05.01.2024, as per its calendar; rehear and decide the said applications in accordance with law.

8. Mr. Madhav Kumar, Advocate, who is present in Court is directed to remain present alongwith the Petitioner, Mr. Meetu Hans before the Trial Court on the next date of hearing to answer the questions of the Trial Court. The counsel for the Petitioner states that the said direction will be complied with. The said statement is taken on record and he is bound down to the



same.

9. With the aforesaid directions and with the consent of the parties, the present petition stands disposed of and the impugned order dated 04.10.2023 passed by the Trial Court is, thereby, set aside.

10. Pending applications, if any, stands disposed of.

MANMEET PRITAM SINGH ARORA, J
DECEMBER 13, 2023/rhc/ms

Click here to check corrigendum, if any