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

Date of decision: 18.10.2023

+ **CM(M) 1714/2023 & CM APPL. 54327/2023**

M/S ARADHANA BUILDERS PVT. LTD. & ANR.

..... Petitioners

Through: Ms. Sneha Baul and Ms. Shruti
Manchanda, Advocates

versus

M/S A.I.S GLASS SOLUTIONS PVT. LTD. Respondent

Through: Mr. Rajdeep Singh Rao, 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):

CM APPL. 54328/2023 (For Exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

CM(M) 1714/2023 & CM APPL. 54327/2023

1. The present petition filed under Article 227 of the Constitution of India impugns the orders dated 29.03.2022, 17.07.2023 and 05.09.2023 passed by the District Judge Commercial Courts (01), Patiala House Courts Complex,



New Delhi in C.S. (Comm.) 25/2022 titled as **A.I.S. Glass Solutions Ltd. v. Aradhana Builders** ('Trial Court').

1.1. The Petitioner No. 1 is the original defendant and the Respondent is the original plaintiff in the civil suit. The civil suit has been filed by the Respondent for recovery of Rs. 5,89,052.48 along with interest against the Petitioner herein.

1.2. Vide order dated 29.03.2022 the Trial Court closed the right of the Petitioners herein to file written statement and proceeded ex-parte against them.

1.3. Vide order dated 17.07.2023 since the defendant sought time to argue the matter on a query raised by Trial Court, the same was granted; however subject to cost of Rs.10,000/- to be paid by the Petitioners i.e. defendants to the plaintiff.

1.4. Vide order 05.09.2023 the Trial court dismissed the application of the Petitioners for waiver of the cost of Rs.10,000/- imposed vide order dated 17.07.2023 and thereafter imposed further cost of Rs. 1,000/- on the Petitioners payable to the Respondent herein.

Further in order to decide the application filed by the Petitioners on 26.08.2022 for condonation of delay, the Trial Court directed the directors of the Petitioner No.1 i.e., the defendant no. 1 to appear in person and file their affidavits before the Trial Court.

2. This Court takes notes that the application dated 26.08.2022 filed by the Petitioners for seeking condonation of delay in filing the written statement alongwith statement of truth and list of documents already stands filed on date 17.06.2022.

2.1. In view of the fact that the application is still pending, the present



petition is disposed of reserving the right of the Petitioners to impugn the said order and order dated 29.03.2022, if the Petitioners are unsuccessful in the said applications.

3. Learned counsel for the Petitioners, however, prays that the direction issued by the Trial Court vide order dated 05.09.2023 for the personal presence of all the Directors is onerous. She states that the directors do not reside in Delhi and some of them are in fact, senior citizens.

3.1. She prays that Petitioner may be permitted to file the affidavit of one of the Directors, who is familiar with the facts of this case and also prays that the remaining Directors be permitted to join the suit proceedings through Video Conferencing.

4. Learned counsel for the Respondent, who appears on advance service, states that he has no objection to the prayer made by the Petitioners herein.

5. This Court has considered the submissions of the parties and perused the record.

6. The Petitioner No. 1 is stated to have three (3) Directors. Petitioner No. 1 will be at liberty to enable two (2) of its Directors to join the scheduled hearing through Video Conferencing and one of the Directors shall remain personally present to answer the queries of the learned Trial Court. The order dated 05.09.2023 is modified to this extent.

7. Learned counsel for the Petitioners states that the legal cost imposed *vide* orders dated 17.07.2023 and 05.09.2023 shall be paid to the Respondent before the Trial Court on the next date of hearing. She however prays for reduction of the said cost.

8. This Court does not deem it appropriate to interfere in the imposition of the legal costs on the Petitioners by the Trial Court as it is a matter within



the discretion of the Trial Court.

9. With the aforesaid directions, the present petition is disposed of along with the pending applications.

10. The learned Trial Court is requested to hear and dispose of the application of the Petitioners dated 26.08.2022 seeking condonation of delay in filing the written statement and application for setting aside *ex-parte* order dated 29.03.2022 expeditiously.

MANMEET PRITAM SINGH ARORA, J

OCTOBER 18, 2023/rhc/ms

Click here to check corrigendum, if any