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

Date of decision: 31.10.2023

+ **CM(M) 1765/2023, CRL.M.A. 28661/2023 & CRL.M.A. 28662/2023**

MR JAYESH JL & ANR.

..... Petitioners

Through: Mr. Joydip Bhattacharya, Advocate

versus

M/S CL EDUCATE LIMITED

..... Respondent

Through: Mr. Vikas Padora and Mr. Aditya Chand, 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):

CRL.M.A. 28662/2023 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

CM(M) 1765/2023, CRL.M.A. 28661/2023

1. At the outset, learned counsel for the Petitioner states that the Petitioner has filed before the Trial Court, two (2) separate applications under Order 26 Rule 10, Code of Civil Procedure, 1908 ('CPC') and an application under Section 165 of Evidence Act, 1872 for seeking leave of the said Court to cross examine the Local Commissioner on her statement recorded on 04.08.2023.



1.1. He states that while he reserves his right with respect to the applications already filed, he states that in this petition, he is seeking limited relief that in the event his applications for cross examination are allowed, the statement of the Local Commissioner recorded on 04.08.2023 should be directed either to be treated as statement of oath or re-recorded on oath so that the sanctity of the cross examination can be maintained.

2. In the opinion of this Court, the issue of re-recording the statement of the Local Commissioner on oath so as to enable the Petitioner to cross examine her as per law can be raised before the learned Trial Court. Accordingly, the learned Trial Court is requested to duly consider this issue while considering the pending applications of the Petitioner.

3. No further directions are required in this matter.

4. The counsel for both the parties has no objection to the aforesaid direction.

5. With the aforesaid directions, the present petition is disposed of. Pending applications are disposed of.

6. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

OCTOBER 31, 2023/msh/sk

Click here to check corrigendum, if any