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

Date of decision: 20.12.2023

+ CM(M) 1891/2023 & CM APPL. 59298/2023
 NCJAIN AND ORS Petitioner
 Through: Mr. Ashok Gurnani, Advocate

versus

MS AIETS COM PVT LTD Respondent
 Through: Mr. S.K. Goyal and Mr. A.K. Goyal,
 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):

1. This petition filed under Article 227 of the Constitution of India impugns the order dated 15.09.2023 passed by the Additional District Judge-04, South District, Saket Courts, New Delhi in 23 CS DJ 296/17 titled as **M/s Aiets Com Pvt. Ltd. v. N.C. Jain & Ors.** ('Trial Court') whereby the said Court dismissed the application seeking an opportunity to lead defendant evidence ('DE') and setting aside of the order dated 24.03.2023 closing the right to lead DE.

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

1.2. The civil suit has been filed by the Respondent against Petitioner Nos. 1 and 2 seeking a declaration that the conduct of Petitioner Nos. 1 and 2 in



publishing the book by superficially changing the title of the book as illegal; for recovery of a sum of Rs. 5,13,000/-; damages of Rs 7,00,000/- in favour of Respondent, and permanent injunction restraining the defendants from selling the book titled as “The secret of my success”.

2. The impugned order is dated 15.09.2023 and this petition challenging the said order was first listed before this Court on 17.11.2023. A perusal of the paper book shows that though the petition was filed in September, 2023 the same was kept pending with defects in the registry; even though the proceedings before the Trial Court continued and was listed for final arguments on 16.11.2023.

3. This Court has been informed that the matter before the Trial Court was at the stage of the final arguments when this petition was first listed and the final arguments by the parties stand concluded; and now the judgment stands reserved for pronouncement before the Trial Court. In fact, the matter is listed today i.e., 20.12.2023 for pronouncement of orders before the Trial Court.

4. Learned counsel for the Respondent states that the costs imposed by the Trial Court as recorded in the order dated 24.03.2023 and 15.09.2023 have also ‘not’ been paid by the Petitioners till date.

5. In the facts of this case noted above, it is therefore, apparent that the Petitioner No. 1 has been deliberately been negligent in leading of evidence and has also failed to comply with the orders of the Trial Court during the course of trial. It is evident from the record that there were successive opportunities given to the Petitioner No. 1 herein to lead evidence, yet the Petitioner No. 1 has failed to avail the said opportunities and has shown very little or no regard for the orders passed by the Trial Court.



6. In view of the fact that the matter has been listed for pronouncement of orders by the Trial Court for today, this petition filed at this stage cannot be entertained.

7. For the aforesaid reasons, this petition is completely devoid of merit and is accordingly dismissed.

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

9. At this stage, learned counsel for the Petitioner states that his right to challenge the impugned order in accordance with Section 105 of Code of Civil Procedure, 1908 ('CPC') in the event the final decree is passed against him be reserved. Liberty as prayed for is granted and any challenge to the impugned order dated 24.03.2023 and 15.09.2023 shall be decided by the Appellate Court in accordance with law.

MANMEET PRITAM SINGH ARORA, J

DECEMBER 20, 2023/msh/ms

Click here to check corrigendum, if any