

\$~31

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

% Judgment delivered on: 05.01.2023

+ CM(M) 1472/2022

SUNDER BHATI Petitioner

versus

ANIL CHOUDHARY Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Rajesh Kumar Singh, Advocate.

For the Respondent : None.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

CM APPL. 56390/2022 (for exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The application is disposed of.

CM(M) 1472/2022 & CM APPL. 56391/2022 (for stay)

3. Mr. Rajesh Kumar Singh, learned counsel appearing for the petitioner challenges the order dated 21.07.2022, whereby the learned Trial Court has permitted the respondent/ plaintiff to file an appropriate application for correction to be carried out with respect to the pecuniary jurisdiction for purposes of relief of declaration and also to modify the relief as sought in the plaint.

4. Learned counsel for the petitioner submits that on 09.06.2022, the application under Order 7 Rule 11 of the CPC, 1908 filed by the petitioner was heard and an order was passed, however, without deciding the application under Order 7 Rule 11 of the CPC in a logical manner. He submits that the learned Trial Court in the penultimate paragraph gave an advisory to the respondent/ plaintiff which was not necessary in the facts and circumstances of the case.
5. Learned counsel also informs that in pursuance of the impugned order, the respondent/ plaintiff has already filed an application under Order 6 Rule 17 of the CPC, 1908, seeking certain amendments.
6. After having heard the learned counsel for the petitioner and having perused the impugned order as well as order dated 09.06.2022, this Court is of the opinion that no purpose would be served now in interdicting the impugned order dated 21.07.2022 inasmuch as the proceedings have continued thereafter and the application under Order 6 Rule 17 of the CPC, 1908, has already been filed by the respondent/ plaintiff in pursuance of the impugned order.
7. This Court is also of the opinion that the order dated 09.06.2022 passed by the learned Trial Court ought to have reached its logical conclusion and it was not within the purview of the learned Trial Court to give an advisory to the respondent/ plaintiff.
8. Be that as it may, the petitioner is directed to file its reply to the application under Order 6 Rule 17 of the CPC, 1908 before the learned Trial Court.
9. The petitioner will be at liberty to raise all objections including those which were raised in the application under Order 7 Rule 11 as well

as those raised in the present petition challenging the impugned order. The learned Trial Court is directed to consider all the contentions which will be raised by the petitioner while hearing the application under Order 6 Rule 17 of the CPC, 1908.

10. In view of the aforesaid directions, the present petition along with the pending application is disposed of.

TUSHAR RAO GEDELA, J .

JANUARY 5, 2023/nd

