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

Date of decision: 14.12.2023

+ CM(M) 2062/2023, CM APPL. 64737/2023 & CM APPL. 64738/2023

ASHOK KUMAR

..... Petitioner

Through: Mr. Nalin Tripathi, Advocate
versus

KRISHAN KUMAR & ORS.

..... Respondent

Through: Mr. Abhishek Kumar and Mr. Sumit Kashyap, Advocates 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):

CM APPL. 64738/2023 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

CM(M) 2062/2023, CM APPL. 64737/2023

1. This petition filed under Article 227 of the Constitution of India, impugns the order dated 24.01.2023 passed by the Additonal District Judge, Tis Hazari Courts, Delhi ('Trial Court') in a civil suit bearing CS DJ No. 618788/16 titled as '*Krishan Kumar v. Ashok Kumar & Ors.*', whereby the Trial Court had disposed of an application filed by the Respondent No. 2 herein, under Order 39, Rule 2A, Code of Civil Procedure, 1908 ('CPC') and issued directions to the Station House Officer (SHO) for ensuring compliance of the directions contained therein.



2. The Petitioner has also impugned the order dated 25.08.2023 passed in the said civil suit, whereby the application filed by the Petitioner seeking review of the impugned order dated 24.01.2023 has been dismissed by the Trial Court.

3. Learned counsel for the Respondent No.1 has entered appearance on advance notice and states that the Petitioner has not disclosed the Trial Court's order dated 17.03.2023, where similar objections raised by the Petitioner to the implementation of the order dated 24.01.2023 have been dismissed.

3.1 He states that since the order dated 17.03.2023 has not been challenged, the Petitioner is precluded from maintaining any challenge to the impugned order dated 24.01.2023.

4. This Court is of the opinion that since the order dated 24.01.2023 was passed by the Trial Court in exercise of its jurisdiction under Order 39 Rule 2A, CPC, the remedy, if any, of the Petitioner herein is to avail the statutory remedy of appeal under Order 43 Rule (1)(r) CPC.

5. This petition is accordingly dismissed with liberty reserved to the Petitioner to avail his appropriate remedy in accordance with law. Pending application stands disposed of.

6. Needless to state that the rights and contentions of the Respondent No.1 as regards to the maintainability of the said appeal in view of the order dated 17.03.2023 shall remain open.

MANMEET PRITAM SINGH ARORA, J

DECEMBER 14, 2023/msh/MG

Click here to check corrigendum, if any