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

*Date of decision: 20.12.2023*

+ **CM(M) 2114/2023**

M/S INDOJ CONSULTANT PVT LTD

..... Petitioner

Through: Mr C.M. Grover, Advocate

versus

SHRI GOVIND MISHRA

..... Respondent

Through: None.

**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. 66245/2023 (for exemption)**

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

**CM(M) 2114/2023**

1. This petition filed under Article 227 of the Constitution of India impugns the order dated 07.10.2023 passed by ADJ, East, Karkardooma Court, Delhi in CS No/ 519/2022 titled as **M/s Indoj consultant Pvt. Ltd. vs. Govind Mishra** ('Trial Court') whereby the Trial Court dismissed an application filed by the Petitioner herein under Order XII Rule 6 read with section 151 of Code of Civil Procedure, 1908 ('CPC').
2. The Petitioner is the original plaintiff and Respondent is the original defendant before the Trial Court.
3. In the considered opinion of this Court, the Petitioner herein has a



statutory remedy of filing a revision as per the proviso of Section 115 of CPC and in view of the statutory remedy of revision, the present petition filed under Article 227 of the Constitution of India is not liable to be entertained.

4. The learned counsel for the Petitioner has relied upon the judgment of this Court in *Pooja Aggarwal v. Sakata Inx (India) Ltd.* dated 02.09.2008 in **CM(M) No. 1669/2007** to contend that the High Court in the said judgment had entertained a petition under Article 227 of the Constitution of India in similar circumstances whereby an application under Order XII Rule 6 of the CPC was dismissed and challenged in the said petition.

5. A perusal of the said judgment would show that the issue with respect to the availability of the statutory remedy as per the proviso of Section 115 of CPC has not been raised and considered in the said judgment relied upon by the Petitioner.

6. At this stage, learned counsel for the Petitioner states that he seeks liberty to approach the appropriate Court by filing a revision.

7. Accordingly, the present petition is dismissed as withdrawn along with pending applications, if any. The liberty is granted as prayed for.

**MANMEET PRITAM SINGH ARORA, J**

**DECEMBER 20, 2023/rk/ms**

*Click here to check corrigendum, if any*