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

+ **CM(M) 176/2024**

RAJIT KUMAR

..... Petitioner

Through: Ms. Anu Monga, Mr. Rahul Goel, Mr.
Shobit Sharma, Mr. Paritosh Dhawan
and Ms. Mahima Arora, Advs.

versus

MRIDULA MURGAI & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **30.01.2024**

CM APPL. 5210/2024—Exp.

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The present petition under Article 227 of the Constitution of India, 1950 has been filed for setting aside the impugned order dated 07.11.2023 passed by the learned Additional District Judge, Patiala House Courts, New Delhi, in CS No.405/2023 titled as “*Rajit Kumar vs. Mridula Murgai & Ors.*”, whereby the petitioner herein was afforded an opportunity to take appropriate steps under Order I Rule 8 CPC and also directed to clarify qua compliance of Section 478 of DHC Act, 1957. The petitioner herein is the plaintiff before the learned Trial Court.



4. Learned counsel submits that the learned Trial Court without giving an opportunity to the petitioner for being heard has passed the order by holding that the petitioner has espoused a claim under Section 91 of CPC. It is submitted which is not so in his case as the petitioner herein is agitating his rights in individual capacity by way of civil suit before the learned Trial Court.
5. It is submitted that he may be granted an opportunity before the learned Trial Court to make his submissions in detail with respect to the issue of Section 91 CPC which is not applicable in his suit.
6. In view of the above, the learned Trial Court is directed to grant an opportunity to the petitioner to make his submissions, on the aforesaid issues on the next date of hearing fixed by learned Trial Court.
7. Learned counsel further submits that since a date in the month of April has been given so he will move an appropriate application seeking preponment of date before the learned Trial Court.
8. The impugned order dated 07.11.2023 is accordingly set aside.
9. The petition stands disposed of.

SHALINDER KAUR, J.

JANUARY 30, 2024/SDS