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

% ***Date of decision : 22nd August, 2024***

+ **CM(M) 270/2022 & CM APPL. 14737/2022 (stay)**

UDAY MEDICARE P. LTD. & ORS.

.....Petitioners

Through: Dr. Anurag Kumar Agarwal with
Mr.Umesh Mishra with Mr. Gulshan
Sharma and Mr.Prateek Agarwal,
Advocates.

versus

RITA AGARWAL

.....Respondent

Through: Mr. Sougat Sinha, Advocate.
(through video conferencing)

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioners are defendant Nos.1, 2, 3 and 5 before the learned Trial Court and are aggrieved by the order whereby they have been proceeded against ex-parte.
2. The attention of this Court has been drawn towards order dated 21.02.2022 as well as order dated 15.03.2022. This Court has also seen the screenshot with respect to the communication sent by the counsel for the petitioners herein to the petitioners, apprising them that since he had not been paid his professional fee, he would not appear before the learned Trial Court that day i.e. on 21.02.2022.
3. Fact remains that on said date i.e. on 21.02.2022, learned counsel had appeared before the learned Trial Court and based on his



submissions that he wanted to withdraw his vakalatnama as his clients had not cleared the professional fee, he was permitted to withdraw his vakalatnama and, simultaneously, said defendants were proceeded against *ex-parte* on the premise that they were avoiding to appear before the Trial Court.

4. When asked, it is apprised that the pleadings are already complete and the case is at the stage of plaintiff's evidence before the learned Trial Court.

5. Learned counsel for the respondents/plaintiffs states that the matter is lingering on for quite some time and though no justifiable cause seems to exist in favour of petitioners herein, he would have no objection if the petitioners are permitted to participate in the proceedings subject to imposition of exemplary cost.

6. Keeping in mind the overall facts and circumstances of the case and also the gracious concession given by the learned counsel for the respondents/plaintiffs, the *ex-parte* order is, hereby, set aside, subject to cost of Rs.1,00,000/-.

7. Let the above said cost be cleared by the petitioners on the next date before the learned Trial Court, which is stated to be 28.10.2024.

8. The learned Trial Court is, accordingly, requested to proceed further with the matter in accordance with law.

9. Since the matter has already got delayed considerably, learned Trial Court is requested to make endeavour to dispose of the matter as



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expeditiously as possible. Needless to say, both the sides would render their best assistance and cooperation in this regard to the learned Trial Court.

10. The petition stands disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

AUGUST 22, 2024
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