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

+ **C.R.P. 121/2024**

KANIKA PANDIT & ANR. Petitioners
Through: Ms. Kaadambari, Mr. Navin
Kumar, Mr. Manoj Prasad and
Mr. Amritesh Bhatt, Advs.

versus

AMIT KUMAR Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **03.04.2024**

CM APPL. 19552/2024 (Ex.) and CM APPL. 19553/2024 (Ex.)

1. Allowed, subject to all just exceptions.
2. The applications stand disposed of.

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3. This civil revision petition is preferred by the petitioner, who has instituted a suit for recovery against the respondent/defendant in suit bearing No. 509/2021, which was dismissed in default for non-appearance of the plaintiff as well his counsel on 07.07.2022.
4. None appeared on behalf of the respondent despite advance notice.
5. Learned counsel for the petitioner has pointed out that the matter was instituted during the COVID-19 Pandemic period and the case got dismissed in default due to sheer unprofessional conduct of the ex-counsel. It is pointed out that the appearance was put by her counsel last time on 01.12.2021, and thereafter, no appearance had



been put and although she had been pursuing the matter with her counsel, but there was no response.

6. It is also pointed out that lastly, an e-mail dated 30.12.2022 was sent to the previous counsel, which was not even responded. The application for restoration of the suit under Order XI Rule 4 of the CPC was then filed in January 2023, immediately after re-opening of the District Courts.

7. *Ex-facie*, the learned Trial Court has passed a very cryptic order dated 04.01.2024 without going into the averments made by the applicant, which was supported by an affidavit of the petitioner.

8. The long and short of the discussion is that finding sufficient cause for non-appearance of the plaintiff on 07.07.2022, the application for delay caused in filing the application is hereby condoned.

9. The suit is ordered to be restored to its original number and position. The matter is remanded back to learned Trial Court for further proceedings/trial as per law. The petitioner/plaintiff shall appear before the learned Trial Court for further proceedings on 01.05.2024.

DHARMESH SHARMA, J.

APRIL 03, 2024

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