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

+ **CM(M) 2264/2024**

SHYAM SPECTRA PRIVATE LIMITED Petitioner

Through: Mr. Surendra Kumar, Adv.

versus

SALEGULLY RETAIL PRIVATE LIMITED Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **03.04.2024**

CM APPL. 19765/2024—Exp.

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

CM(M) 2264/2024, CM APPL. 19764/2024—stay

3. The present petition has been filed under Article 227 of the Constitution of India impugning the order dated 31.01.2024 passed by learned Civil Judge-02, South East District, Saket Courts, New Delhi in CS SCJ No. 342/2023 titled as “SHYAM SPECTRA PVT. LTD. VS SALEGULLY RETAIL PVT. LTD.”

4. The learned counsel for the petitioner states that being the plaintiff before the learned Trial Court, he has instituted a civil suit for recovery of amount i.e., 31,044.91 /- on account of internet services provided by the plaintiff to the respondent. It is submitted that in respect to the summons issued on 22.03.2023, the respondent appeared on 04.05.2023, however, did not contest the suit and no written statement has been filed on behalf of the defendant till date. It is further submitted that the defendant last appeared before the learned Trial Court on 05.07.2023 and since then he has not been



appearing. However, on 31.01.2024, the learned Trial Court has summoned the Director of the plaintiff company to be present in person for clarifications. The learned Trial Court has not clarified the purpose for which the appearance of the Director is required as on the earlier dates of hearing no such direction was there from the learned Trial Court. It is submitted that it is the defendant who has not been appearing before the learned Trial Court, however, learned Trial Court has not passed any adverse orders against the defendant since 05.07.2023.

5. Since the defendant has not been appearing before the learned Trial Court, the issuance of notice to the respondent who is defendant before the learned Trial Court is dispensed with. Moreso, the present petition is impugning the order with respect to the summoning of the Director of the plaintiff company.

6. Apart from hearing the arguments, the impugned order and the record is perused.

7. The learned Trial Court has passed a very casual and cryptic order without assigning the reasons for summoning the Director of the plaintiff company in the middle of the proceedings, specifically when the AR and the counsel on behalf of the plaintiff company were appearing. The order does not observe the clarification to be sought from the Director, which could not have been provided by the counsel or the AR appearing on behalf of the plaintiff company and for which personal appearance of Director of the plaintiff company is needed.

8. In view of the above, the order dated 31.01.2023 to the extent of summoning the Director of the plaintiff company to be present before the learned Trial Court in person on 04.04.2024 is set aside. In case, the learned



Trial Court deems it necessary to summon the Director, a speaking order may be passed.

9. With above observation, the petition along with pending application stands disposed of.

SHALINDER KAUR, J.

APRIL 03, 2024
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