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

% ***Date of Decision: 28th October, 2024***

+ **CM(M) 2436/2024**

ANJU BALA ARORAPetitioner

Through: **Mr. Raghav, Advocate.**
(through V.C.)

versus

TAPAN MUDGAL & ORS.Respondents

Through: **Mr. Parmod Kumar Singhal with**
Mr. Rahul Singhal, Advocates.
(through V.C.)

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 63634/2024 (early hearing)

1. The application has been moved on behalf of the petitioner seeking early hearing of the matter.
2. Since the issue involved is very short and concise and since learned counsel for the respondents has also joined the proceedings through video conferencing, with the consent of the parties, the matter, as such, has been taken up.
3. The application stands disposed of accordingly.

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4. The petitioner herein is plaintiff before the learned Trial Court.



5. The plaintiff was permitted to lead remaining evidence subject to cost of Rs.15,000/-. He was given last opportunity to produce her evidence on 09.10.2023. However, on 09.10.2023, instead, an application was moved seeking waiver of the cost and such application was dismissed by the learned Trial Court and, straightway, the case was fixed for defendant's evidence.
6. Such order is under challenge.
7. During course of the arguments, learned counsel for the petitioner (plaintiff) states that it was a *legal aid* matter and it was only on account of financial constraint that the cost could not be arranged and now, as per the instructions, the plaintiff is ready to clear the cost and, therefore, it is prayed that one last and final opportunity be granted to her to lead evidence before the learned Trial Court.
8. Learned counsel for the respondent/defendant has also joined the proceedings through video conferencing and states that though the defendant has already led his evidence, without prejudice to his rights and contentions, he would have no objection if one last and final opportunity is granted to the petitioner to lead remaining evidence.
9. The next date before the learned Trial Court is stated to be 19.11.2024 for final arguments.
10. Keeping in mind the overall facts of the case and also appreciating that the plaintiff, who happens to be a lady, could not arrange for cost of Rs.15,000/- and was compelled to seek legal aid and



also keeping in mind the gracious concession given by Sh. Parmod Kumar Singhal, learned counsel for the respondent, the present petition is disposed of with the directions that the plaintiff is given one last and final opportunity to examine his remaining witnesses, on a date, to be fixed in this regard by the learned Trial Court.

11. It is, however, expected that the petitioner would ensure that the advance copy of the affidavits of the witnesses whom she wishes to examine are duly supplied to Sh. Singhal, learned counsel for the defendant/defendant within two weeks from today. If she wishes to examine any official witness, an application in this regard would be filed before the learned Trial, well in advance, so that the learned Trial Court takes up the above said application and issue summons to all such witnesses whose testimony it considers to be relevant in the context of the issues raised before the learned Trial Court.

12. The order of cost of Rs.15,000/- is modified to the extent that such entire cost would now go to the defendant and such cost be cleared on the next date fixed before the learned Trial Court.

13. Sh. Raghav, learned counsel for the petitioner/plaintiff states that one Mr. Gaurav Arora (son of the plaintiff) would enter into witness box on behalf of the plaintiff and no other 'private witness' would be examined and he would ensure that even the list of official witness is pruned down, to the extent possible.

14. It is also informed that when the case was at the stage of defendant's evidence, the plaintiff could not cross-examine such



witness and his right to cross-examine defendant's witness was also closed. However, such order is not the subject matter of the present petition but, at the same time, it is clarified that it will be always open to the plaintiff to move appropriate application seeking recall of the above said order and the learned Trial Court would consider any such application, if moved, in accordance with law.

15. The petition stands disposed of accordingly.

(MANOJ JAIN)
JUDGE

OCTOBER 28, 2024/st