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

+ **FAO (COMM) 154/2023 & CM No.37788/2023**

VIDYA SHRI DEVI

..... Appellant

Through: Mr Alok Kumar Pandey, Mr Kunal
Prakash and Ms Muskan Dewan,
Adv.

versus

ALPINE GLOBAL PVT LTD

..... Respondent

Through: Mr Deepak Dahiya, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

07.05.2024

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[Physical Hearing/Hybrid Hearing (as per request)]

1. This appeal is directed against the orders dated 17.04.2023 and 23.05.2023 passed by the learned District Judge, Commercial Courts-01, Dwarka Courts, Delhi.
2. At the outset, it must be noted that in the suit action, the appellant was arrayed as defendant no.2, while the concern of which defendant no.2 is the proprietor, i.e., Safemax Industries, was impleaded as defendant no.1. Besides this, the marketing manager of defendant no.1 was arrayed as defendant no.3.
3. Notably, the appellant/defendant no.2 along with defendant no.1 had jointly filed a written statement in the suit action.
4. Via order dated 17.04.2023, the learned District Judge closed the right of the appellant/defendant no.2 and defendant no.1 to file a written

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statement, and consequently, directed the written statement be taken off the record as the appellant/defendant no.2 and defendant no.1 failed to deposit costs of Rs.3000/- along with their written statement.

4.1 The record discloses that previously, *via* order dated 13.03.2023, the learned District Judge had granted the appellant/defendant no.2 and defendant no.1 an opportunity to file a written statement, subject to costs of Rs.3000/- being paid.

5. The second order impugned in the appeal dated 23.05.2023, *inter alia*, was passed on an application moved by the appellant/defendant no.2 and defendant no.1 to recall the order dated 17.04.2023. This application was dismissed by the trial Court with costs of Rs.5,000/-.

6. Mr Deepak Dahiya, learned counsel, who appears on behalf of the respondent/plaintiff, says that he would have no objection to the written statement being brought on record as long as costs are imposed and an opportunity is given to the respondent/plaintiff to file a replication *qua* the written statement filed by the appellant/defendant no.2 and defendant no.1.

7. Accordingly, the impugned orders are set aside. The written statement filed by the appellant/defendant no.2 and defendant no.1 will, now, be formally taken on record, subject to costs of Rs.3,000/- being paid to the respondent/plaintiff on the next date of hearing fixed before the trial Court.

8. The respondent/plaintiff will have liberty to file a replication to the written statement filed by the appellant/defendant no.2 and defendant no.1.

9. A replication will be filed within the next three (3) weeks.

10. In case the replication is filed, the trial Court shall give a fresh opportunity to both sides to tender evidence by way of affidavits.



11. List the matter for directions before the concerned trial Court on 16.05.2024.
12. The appeal is disposed of in the aforesaid terms.
13. Consequently, the pending application shall stand closed.
14. The interim order dated 31.08.2023 shall stand vacated.
15. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

AMIT BANSAL, J

MAY 7, 2024

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[Click here to check corrigendum, if any](#)