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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of decision: 27th September, 2024***
+ **CM(M) 2864/2024 & CM APPL. 56459/2024 (early hearing)**
VARUN GUPTAPetitioner

Through: Mr. Rakesh Khanna, Sr. Advocate
with Mr. Ganesh Khanna and Mr.
Aditya P Khanna, Advocates.

versus

SUMAN GROVER & ANR.Respondents
Through: Mr. Avinash Trivedi with Mr. Jatin
Arora, Mr. Rahul Aggarwal and Mr.
Anurag Kaushik, Advocates for R-1.
Mr. Lalltaksh Joshi with Mr. Ananya
Saraogi, Advocates for R-2.

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+ **CM(M) 3314/2024& CM APPL. 51043-51044/2024**
VARUN GUPTAPetitioner

Through: Mr. Rakesh Khanna, Sr. Advocate
with Mr. Ganesh Khanna and Mr.
Aditya P Khanna, Advocates.

versus

SUMAN GROVER & ANR.Respondents
Through: Mr. Avinash Trivedi with Mr. Jatin
Arora, Mr. Rahul Aggarwal and Mr.
Anurag Kaushik, Advocates for R-1.
Mr. Lalltaksh Joshi with Mr. Ananya
Saraogi, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
J U D G M E N T (oral)

1. Petitioner herein is defending a suit for recovery.
2. Two different orders, passed by learned Trial Court during the pendency of said suit, have been challenged by filing the aforesaid petitions.



3. In context of CM(M) 2864/2024, the petitioner had sought opinion of handwriting expert in order to demonstrate that no '*letter of acceptance*' dated 15.07.2016 was ever signed by him.
4. Such request was declined by the learned Trial Court *vide* order dated 08.05.2024.
5. However, after hearing arguments for some time, learned Senior Counsel, on instructions, states that without prejudice to his rights and contentions, the petitioner is no longer interested in pressing his above said petition.
6. The above said petition i.e. CM(M) 2864/2024 is, accordingly, disposed of as not pressed.
7. As regards to the other petition, the grievance of the petitioner is very limited.
8. According to petitioner, during the course of *examination-in-chief*, certain documents were placed by the plaintiff before the learned Trial Court and were exhibited also. However, for proving them in a desired manner, there was a requirement of placing on record a certificate under Section 65-B of the Indian Evidence Act (now Section 63 of the Bharitya Sakshya Adhiniyam, 2023) by the plaintiff. Since there was no such certificate, the cross examination qua those documents was not elaborate and exhaustive.
9. However, by virtue of subsequent order dated 08.05.2024, the learned Trial Court permitted the plaintiff to place on record such certificate under Section 65B of the Indian Evidence Act (now Section 63 of the Bharitya



Sakshya Adhiniyam, 2023). However, the aspect of admissibility of said certificate was kept open as the learned Trial Court had observed that it would be seen during the course of final arguments.

10. During the course of arguments, learned counsel for respondent/plaintiff states that in order to ensure that even said certificate is proved properly and in accordance with law, he has instructions that the plaintiff would like to enter into witness box again and states that to the above said extent, he would have no objection, if the petition filed by the petitioner herein seeking cross-examination of PW-2 (Mr. Praveen Grover) is allowed.

11. Learned Senior Counsel for petitioner states that in view of the above, this Court may pass appropriate directions.

12. Keeping in mind the overall facts and circumstances of the case and in order to cut short any possible controversy which may arise in future, the petition is disposed of with the direction that PW-2 (Mr. Praveen Grover) would be permitted to enter into witness box for formally tendering the above said certificate and thereafter, the defendant would be permitted to cross-examine the said witness, limited to the aspect of said certificate and any document related to the above said certificate.

13. Since the matter is, reportedly, listed before the learned Trial Court today itself, both the parties would seek appropriate date from the learned Trial Court for the purposes of above said examination/cross-examination of PW-2.

14. Both the petitions stand disposed of in the aforesaid terms.



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15. Since the case in question is, reportedly, be one of the oldest cases pending before the learned Trial Court, it is expected that both the sides would give requisite cooperation and assistance to the learned Trial Court so that after the above said examination is over, the Court is in a position to hear final argument and to dispose of the matter.

(MANOJ JAIN)
JUDGE

SEPTEMBER 27, 2024/sw