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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 19<sup>th</sup> July, 2024***+ **CM(M) 2946/2024****HARI SINGH YADAV AND ANR**

.....Petitioner

Through: Mr. Vikram Saini and Mr. Chitranjan  
Kumar, Advocate (through V.C.).

versus

**RAM KUMAR GUPTA DECEASED THROUGH LR.**

.....Respondent

Through: Mr. Sunil Dutt Dixit and Mr. Shashwat  
Dixit, Advocates (M-9312832910 &  
8376000209) (E-mail:  
sddoffice2@gmail.com)**CORAM:****HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)****CM APPL. 40106/2024 (Exemption)**

Exemption allowed, subject to all just exceptions.

**CM(M) 2946/2024 & CM APPL. 40105/2024 (Stay)**

1. Mr. Sunil Dixit, learned counsel for the respondent has joined through Video Conferencing.
2. Mr. Shashwat Dixit, associate of Mr. Sunil Dixit is present in Court.
3. The petitioners are defendants before the learned Trial Court and have impugned order dated 10.05.2024 and 31.05.2024.
4. When the case was at the stage of defendant's evidence, the learned Trial Court declined them to examine one official from MCD. This is



reflected in impugned order dated 10.05.2024.

5. When the matter was taken up by the learned Trial Court on 31.05.2024, the defendants submitted evidence by way of affidavit of one Mr. Subhash. His name figured in the list of witnesses submitted way back in the year 2019. However, tendering of such affidavit was objected to by the plaintiff on the ground that said witness could not have been examined without the permission of the Court. The permission to examine him has also been declined by the learned Trial Court.

6. This is how the petitioners are before us.

7. During the course of the consideration, Mr. Vikram Saini, learned counsel for the petitioner states that he confines his petition only with respect to the examination of Mr. Subhash and does not insist for the examination of the MCD official.

8. He submits that there is no intention to delay the matter in any manner whatsoever and the next date before the learned Trial Court is 31.07.2024 and on that day itself, said witness Mr. Subhash, if permitted, would appear for recording of his evidence. He also states that he would have no objection if the learned Trial Court, subject to its convenience, also starts hearing final arguments same day.

9. During the course of the hearing, Mr. Sunil Dixit states that without prejudice to his rights and contention, he would have no objection if the aforesaid limited accommodation is granted to the petitioner.

10. Keeping in mind the overall facts and circumstances of the case, the concession given by Mr. Dixit and in the interest of justice, the present petition is disposed of with the following directions:-

a. On the next date before the learned Trial Court i.e. on



- 31.07.2024, the defendants would produce Mr. Subhash for the purpose of his examination/ cross examination. It is made clear that no further opportunity would be given to them for examination of said Mr. Subhash on any ground whatsoever.
- b. If for reason, not attributable to defendants, said witness is not examined on 31.07.2024, learned Trial Court would be well within its right to grant them one more effective opportunity for said limited purpose.
- c. After the cross-examination is over, it will be up to the learned Trial Court to consider whether it can take up the matter for final arguments on same day or not.
11. Needless to say, both the sides would come prepared for the purposes of final arguments as well. This direction is being made as it is noticed that the said matter is one of the oldest 20 matters pending on the board of learned Trial Court.
12. Petition stands disposed of in aforesaid terms.

**(MANOJ JAIN)**  
**JUDGE**

**JULY 19, 2024/ss**