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

+ **CM(M) 1804/2023**

**SURENDER AGGARWAL**

..... Petitioner

Through: Mr. Anunaya Mehta, Ms. Satya Jha  
and Mr. Vinayak Thakur, Advs.

versus

**PUSHPA DEVI & ANR.**

..... Respondents

Through: Mr. Tara Singh Kashyap, Adv. For R-  
1 along with respondent no. 1 in  
person.

**CORAM:**

**HON'BLE MS. JUSTICE SHALINDER KAUR**

**ORDER**

% **22.01.2024**

**CM APPL. 57340/2023 (exemption)**

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

**CM(M) 1804/2023, CM APPL. 57339/2023—I.relief**

3. The present petition under Article 227 of the Constitution of India has been filed impugning the order dated 17.08.2023 passed by the learned CJ-06, Central, Tis Hazari Courts, New Delhi, in CS No.601197/2016 titled as "*Smt.Pushpa Devi vs. Surender Aggarwal*", whereby the learned Trial Court dismissed the application under Order IX Rule 7 CPC moved by the defendant no.1. The petitioner herein is the defendant no.1 before the learned Trial Court.
4. Heard.
5. It is submitted on behalf of the petitioner that vide the impugned order



dated 17.08.2023, the application under Order IX Rule 7 CPC read with Section 151 CPC and for recalling the orders dated 07.07.2022 and 20.10.2021 was rejected by making flimsy observations by the learned Trial Court. However, in the interest of justice, he seeks a single opportunity to cross-examine the witnesses of respondent no. 1. Thus, the orders dated 07.07.2022 and 20.10.2021 be set aside and petitioner be allowed to participate in the trial subject to cost.

6. The learned counsel appearing on behalf of respondent no. 1 submits that he has no objection in case the petitioner is allowed one opportunity to cross examine the witnesses of the respondent no. 1 after imposing heavy cost.

7. In view of the submissions recorded above as well as on perusal of the record, in the interest of justice, the order dated 17.08.2023 is set aside and the petitioner herein is granted one opportunity to cross examine the witnesses of respondent no. 1, subject to cost of Rs. 20,000/- to be paid within a week.

8. It is made clear that learned Trial Court shall either get the cross examination of the witnesses of respondent no. 1 concluded on 21.02.2024 i.e., the date already fixed before it or on any other date, in case the cross-examination is not concluded 21.02.2024, to be fixed as per the convenience of the learned Trial Court, preferably, in the month of February.

9. In view of the above, the petition stands disposed of.

**SHALINDER KAUR, J.**

**JANUARY 22, 2024/SU**