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

% ***Date of decision: 07th August, 2024***

+ **CM(M) 3124/2024 & CM APPL. 45094/2024
REEMA AGGARWAL**

.....Petitioner

Through: **Mr. Rajeev Sharma and Mr. Vinayak
Sharma, Advocates.**

versus

JASMEET SINGH

.....Respondent

Through: **Ms. Prasheila, Advocate.**

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 45095-45096/2024 (Exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 3124/2024

1. The petitioner is defendant before the learned Trial Court and has impugned two orders.
2. First impugned order is dated 22nd July, 2024 whereby her right to lead evidence has been closed, observing that she had not even filed her evidence-affidavit before the Court.
3. The second challenge is with respect to order dated 3rd June, 2024 whereby her application moved under Section 45 of Indian Evidence Act has been dismissed.
4. During course of the arguments, learned counsel for the petitioner (defendant) has restricted his grievance with respect to order dated 22nd July,



2024 only.

5. It is contended that it somehow missed the attention of the learned Trial Court that the evidence-affidavit of the defendant was already on record. In this regard, reference has been made to order dated 18th August, 2022 which clearly indicates that DW1 Ms. Reema Aggarwal had tendered her evidence by way of affidavit and that her cross-examination was deferred.

6. Learned counsel for respondent (plaintiff before the learned Trial Court) has joined the proceedings through Video Conferencing and she has, in all fairness, admitted that the affidavit of the defendant was already on record. She also states that she would have no objection if defendant is permitted to enter into witness box for the purpose of her examination-in-chief and examines other official witness. She, however, states that she also be given permission to cross-examine them.

7. Learned counsel for petitioner (defendant) stated that the defendant would be examining four official witnesses whose particulars have already been given in the list of witnesses before the Trial Court. Since, all the other witnesses are stated to be official, no prejudice would be caused to the plaintiff if one opportunity is granted to the defendant to examine them as well.

8. In view of the above and keeping in mind the overall facts and circumstance of the case, the present petition is hereby disposed of with the directions that the learned Trial Court would permit defendant i.e. DW1 Reema Aggarwal to get herself examined and after her examination-in-chief is over, she would be duly tendered for cross-examination by the plaintiff. The learned Trial Court would also give opportunity to defendant to examine said official witnesses whose names are already mentioned in the list of



witnesses. It is, however, clarified that the opportunity is restricted for defendant herself and the official witnesses and there is no permission to examine any private individual.

9. It is noted that the case is of the year 2016 and there is already considerable delay in the matter. The petitioner (defendant) is, thus, also burdened with a cost of Rs. 10,000/- which would be cleared on the next date of hearing i.e. tomorrow.

10. The defendant is reportedly away to Jalandhar and it may not be possible for her to come tomorrow, before the learned Trial Court. Both the sides would take a specific date in this regard for the purposes of examination/cross-examination of DW1 Reema Aggarwal and for examination of official witnesses, as indicated above.

11. The petition is disposed of with aforesaid terms.

12. The copy of the order be given *dasti* under the signature of the Court Master.

(MANOJ JAIN)
JUDGE

AUGUST 7, 2024/ss