



2024:DHC:6533



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 28th August, 2024***+ **CM(M) 3252/2024 & CM APPL. 49155/2024
SHRI AMAN GUPTA**

.....Petitioner

Through: Ms. Payal Jain, Mr. Sumit Kumar and
Mr. Mohd. Nayed, Advocates.

versus

MS. MEETU HANS & ANR.

.....Respondents

Through: None.

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

1. Petitioner had filed a suit for possession and recovery.
2. The learned Trial Court settled the issues vide order dated 29th April, 2024. Such order would reflect that five issues were labelled as “preliminary issues” and the learned Trial Court adjourned the case for arguments on such preliminary issues.
3. However, when the matter was taken up on 18th July, 2024 by the same Court and when the plaintiff had drawn the attention of the learned Trial Court to the fact that preliminary issues had been framed and same were to be argued out, the learned Trial Court, instead, observed that such contention was totally misconceived and had been made with the objective to prolong the proceedings. It also observed that no preliminary issue had been framed by the Court at all.



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4. Obviously, the above said observation is not in consonance with the earlier order.
5. It seems that there was some kind of uncertainty in the mind of the learned Trial Court as the order whereby the issues were settled is very specific and categoric and the learned Trial Court had, itself, fixed up the matter for arguments on preliminary issues.
6. Such order continues to hold good unless and until, the same is modified either by the same Court or by Superior Court and, therefore, it seems imperative for the learned Trial Court to hear the arguments on preliminary issues.
7. The advance notice have been duly served upon the respondent but there is no appearance from the side of the respondent.
8. In view of the facts placed before this Court, the present petition is disposed of with direction that the learned Trial Court, as already indicated by the said Court itself on 29th April, 2024, would take up the matter for arguments on preliminary issues.
9. Keeping in mind the peculiar facts placed before this Court, the cost imposed by learned Trial Court on petitioner herein on 29.04.2024 is also waived.
10. Order *dasti* under the signature of the Court Master.

(MANOJ JAIN)
JUDGE

AUGUST 28, 2024/ss