



2024:DHC:7243



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 18th September, 2024***+ CM(M) 3409/2024, CM APPL. 54447/2024, CM APPL. 54448/2024,
CM APPL. 54449/2024 & CM APPL. 54450/2024

KAMLAVATI

.....Petitioner

Through: Ms.Vrinda Bhandari, Advocate
(DHCLSC) with Ms. Pragya
Barsaiyan, Ms. Anandita Rana,
Ms. Vanshita Rana, Advocates.

versus

INDU AGGARWAL

.....Respondent

Through: Mr. Vivek Srivastava with Mr. Sanjay
Kumar, Advocates.**CORAM:****HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

1. Petitioner is defending a recovery suit.
2. Earlier, she did not appear before the learned Trial Court and could not cross-examine PW-1 i.e. plaintiff Indu Aggarwal and was proceeded against ex-parte. She moved an application seeking recall of the order. The order was recalled and she was permitted to cross-examine the petitioner subject to cost of Rs.10,000/-.
3. However, when the plaintiff appeared for cross-examination on 10.07.2024, the defendant (petitioner herein) made a submission before the learned Trial Court that the cost be rather reduced to



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Rs.5,000/-. Such request was declined by the learned Trial Court and since the cost was not cleared, the opportunity for further cross-examining PW-1 Indu Aggarwal was closed.

4. Such order is under challenge.

5. Learned counsel for the petitioner submits that she has been appointed by the Delhi High Court Legal Services Committee to represent the case of the petitioner as she is financially handicapped. It is informed that her case is being taken care of by a Legal Aid counsel also before the learned Trial Court.

6. Learned counsel for the petitioner submits that keeping in mind the above said position, it was a fit case where the cost should have been either waived or reduced to half.

7. Sh. Vivek Srivastava, learned counsel for the respondent appears on advance notice. He though disputes the factum regarding her alleged financial condition but states that he does not want to prolong his own matter and would have no objection if the cost is reduced from Rs.10,000/- to Rs.5,000/-. He, however, states that the petitioner be asked to cross-examine the plaintiff either today or within one week from today so there is no further delay in the matter.

8. It is apprised that the matter is fixed before the learned Trial Court today and, therefore, it will not be possible to ask the parties to do the needful today itself.

9. In view of the foregoing discussion and also keeping in mind



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the gracious concession given by Sh. Srivastava, learned counsel for the respondent, the present petition is disposed of with the direction that the petitioner would clear the cost of Rs.5,000/- on the date to be fixed in this regard by the learned Trial Court for the purposes of cross-examination of the plaintiff and on such fixed date, the defendant shall not seek any adjournment and would ensure that the cross-examination is conducted and, preferably, concluded as well on such date.

10. Both the parties are directed to appear before the learned Trial Court and to take suitable date for the purposes of clearance of cost and said cross-examination. The learned Trial Court is also requested to give a date for such cross-examination, preferably, this month only.

11. The petition is disposed of in the aforesaid terms.

12. Copy of the order be given Dasti under the signatures of the Court Master.

(MANOJ JAIN)
JUDGE

SEPTEMBER 18, 2024/st