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

% ***Date of Decision: 4th October, 2024***

+ CM(M) 3459/2024 & CM APPL. 55967/2024 & CM APPL.
55968/2024

M/S JES AND BEN GROUPO PVT.L TD.

.....Petitioner

Through: Mr. Harsh Sharma and Mr. Hemant
Sharma, Advocates.

versus

M/S SHAKTI TRADING CO

.....Respondent

Through: Mr. Pankaj Kumar Verma, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT (oral)

1. Petitioner is defending a commercial suit.
2. The issues were framed by the learned Trial Court on 31st October, 2023 and in view of the facts of the case, the learned Trial Court directed the defendant to adduce evidence first.
3. However, it seems that on account of non-payment of some cost, the right of the defendant to lead evidence was closed and thereafter the matter was straightaway fixed for '*final arguments*'.
4. Naturally, not only the defendant but even the plaintiff seem to be aggrieved by said order, as the right of the plaintiff to lead evidence has also been, by inference, closed and the case has been fixed for final arguments.
5. Learned counsel for the respondent/plaintiff has also joined the proceedings through video conferencing.
6. When asked, both the sides have, very fairly, informed that the cost was



imposed upon the defendant on three different occasions and the total worth of such cost was Rs.30,000/-.

7. Out of the abovesaid Rs.30,000/-cost, cost of Rs.25,000/- had already been admittedly received by the plaintiff.

8. The balance unpaid cost is of Rs.5,000/- only.

9. According to the learned counsel for the defendant, the defendant has already moved an application seeking waiver of such cost and such application is still pending adjudication before the learned Trial Court.

10. After hearing arguments for some time, and with the consent of the parties, the present petition is disposed of with the following directions :-

- i. The defendant would not press his said application seeking waiver of the cost of Rs.5000/-.
 - ii. The unpaid cost of Rs.5000/- would be cleared/paid/deposited on or before the next date of hearing which is stated to be 14th October, 2024.
 - iii. Once such cost is cleared, the learned Trial Court shall give due opportunity to the defendant to lead its evidence and after the evidence of defendant is over, the Court would also permit the plaintiff to lead its evidence.
11. The petition stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

OCTOBER 4, 2024/ss