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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 3478/2024 & CM APPL. 56575/2024**
GEETA DEVIPetitioner

Through: Mr. Jeewan Chandra, Mr. Rabinder
Nanda and Mr. Angad Gulati,
Advocates with petitioner-in-person.

versus

VIKAS SINGH MALIKRespondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

% **25.09.2024**

CM APPL. 56576/2024 (Exemption)

Exemption allowed, subject to all just exceptions.

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1. Petitioner was defendant before the learned Trial Court.
2. The suit in question was dismissed in default and also for non-prosecution on 12th March, 2024 and while dismissing so, the learned Trial Court had also observed that the plaintiff would be entitled for refund of any amount deposited with the Court.
3. Learned counsel for the petitioner states that such order has to be read in conjunction with order dated 12th February, 2014 passed by this Court when the same suit was pending before this Court on its original side having No. as CS(OS) 2329/2007.
4. It is stated that with the change in pecuniary jurisdiction, the said suit was eventually transferred to District Court and has now been dismissed in default.
5. When asked as to why an application seeking clarification or

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modification of the abovesaid order was not filed before the learned Trial Court, the petitioner stated that though he had filed such application but in view of some mistaken advice such application was withdrawn on 9th September, 2024.

6. This Court feels that the best available course open to the petitioner was to rather have sought clarification from learned Trial Court.

7. This Court also feels that above order dated 12th February, 2014 seems quite specific and it does not look that the same has been varied or altered.

8. After hearing arguments for some time, learned counsel for the petitioner states that he may be permitted to file application afresh before the learned Trial Court for seeking clarification/modification and he, therefore, does not press this petition while reserving his rights and contentions.

9. The petition is thus disposed of as not pressed without prejudice to her rights.

10. The petitioner herein is also granted liberty to file application afresh seeking requisite clarification and modification. Learned Trial Court shall consider the same without getting influenced by any of the observation appearing in the present order.

11. Order *dasti*, under the signature of the Court Master.

MANOJ JAIN, J

SEPTEMBER 25, 2024/ss