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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: 08th October, 2024***

+ **CM(M) 3572/2024 & CM APPL. 59463-59464/2024**

JYOTSNA

.....Petitioner

Through: Mr. Anil K. Khaware, Ms. Azma
Zaidi, Mr. Yogendra Kumar
Advocates along with
petitioner-in-person

versus

BALDEV RAJ MADAN & ORS.

.....Respondent

Through: Mr. Rajiv Bajaj and Mr. Vidur
Marwah, Advocates
Ms. Sanam Tripathi, ASC, MCD with
Mr. Shreyash Chaudhary, Advocate
for R-4/MCDS

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 59464/2024 (exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 3572/2024 & CM APPL. 59463/2024

1. Petitioner is plaintiff before the learned Trial Court and has filed a suit seeking perpetual and mandatory injunction.
2. When DW2 Mr. Baldev Raj Madan entered into witness box on 27.04.2024, plaintiff herself chose to cross-examine him.
3. Such permission was granted to her by the learned Trial Court but the cross-examination began, she started asking irrelevant questions, despite being warned by the learned Trial Court.
4. Since she did not put relevant questions, her right to cross-examine was



closed.

5. Such order is under challenge.

6. Next date before the learned Trial Court is stated to be 23rd instant for final arguments.

7. This Court has seen the evidence-sheet of 27.04.2024.

8. Learned counsel for respondents/defendants also appears on advance notice and informs that the intention of the plaintiff is other than bonafide as she kept on putting several irrelevant questions which, unfortunately, were not recorded in the evidence-sheet, in a comprehensive manner. It is also submitted that after the aforesaid order passed by the learned Trial Court, she moved an application seeking transfer of the case questioning the manner in which the learned Trial Court had conducted itself in the above matter.

9. Larned counsel for the petitioner does admit the mistake committed by his client. He states that keeping in mind the complex nature of the suit, she should not have herself ventured into cross-examination and secondly, she should not have put any irrelevant question. It is also submitted that it was not appropriate on her part to have moved any such application seeking transfer of the matter, *albeit*, the same has already been dismissed.

10. It is also informed that on account of regular transfer-posting, there is now a new learned Judicial Officer presiding over the said Court.

11. When asked, learned counsel for petitioner has, very fairly, admitted that if one opportunity is given, the petitioner i.e. plaintiff would ensure that her counsel is there before the learned Trial Court for conducting the cross-examination and it will be also ensured that such cross-examination is conducted in one go so that thereafter the learned Trial Court can proceed with the matter in accordance with law.



12. Keeping in mind the overall facts and circumstances of the case and also in the interest of justice, present petition is disposed of with the following directions: -

- (i) Petitioner/plaintiff is granted one last and final opportunity to cross-examine DW2 Baldev Raj Madan.
- (ii) Such cross-examination would be conducted by her counsel and, as undertaken, she would not herself conduct such cross-examination.
- (iii) No unnecessary adjournment would be sought by her from the learned Trial Court.
- (iv) For causing delay in the matter, she is burdened with cost of Rs. 10,000/- which she would deposit with Delhi Legal Services Authority, Central District, Delhi on or before the next date of hearing.

13. Matter is fixed before the learned Trial Court on 23rd instant and it will be entirely upto the learned Trial Court to see whether such cross-examination can take place same day or not. Needless to say, plaintiff would ensure that her counsel is available that day before the learned Trial Court and said witness is also produced by the defendants before the learned Trial Court that day, so that if possible, cross-examination is conducted same day and thereafter matter is accordingly taken up for final arguments.

14. Petition stands disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

OCTOBER 8, 2024/dr