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

+ **CM(M) 3996/2024**

M/S JES AND BEN GROUPO PVT. LTD.Petitioner

Through: **Mr. Hemant Sharma and Mr. Harsh
Sharma, Adv.**

versus

M/S SHAKTI TRADING CO.Respondent

Through: **Mr. Pankaj Verma, Adv.**

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

06.12.2024

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CM APPL. 71469/2024 (exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

CM(M) 3996/2024 & CM APPL. 71468/2024 STAY

1. The petitioner impugns the order dated 26.11.2024 passed by the learned District Judge (Commercial Court), Central, Tis Hazari, Delhi in Civil Suit (COMM) 1634/2022.
2. Respondent filed a commercial suit for recovery which is being contested by the petitioner.
3. Vide order dated 25.10.2024, the Trial Court appointed a Local Commissioner for recording the entire evidence of both the parties subject to payment of Rs.7500/- per witness with further direction that in case the cross-examination of any witness continues beyond one date, additional fee



of Rs.4000/-will be paid to the Local Commissioner by the party for cross-examining the said witness.

4. A joint application was filed by the parties before the learned Trial Court praying for recording of evidence before the Trial Court instead of getting it recorded by the Local Commissioner but the said application was dismissed by the Trial Court vide order dated 26.11.2024.

5. The Trial Court order dated 25.10.2024 records that the Local Commissioner was appointed with the consent of both parties. However, both the counsels present in Court submit that they had not given such consent inasmuch as according to them such order was passed by the trial court at 4:00 PM in their absence.

6. On behalf of the petitioner, it has been submitted that petitioner is not in a position to afford the payment of fee of the Local Commissioner, and therefore, directions be issued for cross-examination of witnesses in Court.

7. Counsel for respondent has no objection in case such a direction is issued.

8. Keeping in view the entire facts and circumstances, and the fact that petitioner may not be in a position to make the payment of fee of the Local Commissioner as also the concession granted by the respondent, in the interest of justice, petition is disposed of with the direction that evidence be recorded in Court itself and not before the Local Commissioner appointed by the Trial Court.

RAVINDER DUDEJA, J

DECEMBER 6, 2024/ib