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

+ CM(M) 4074/2024

ASHMIT SINGH ALAG

.....Petitioner

Through: Mr. Manohar Lal & Mr. Chaitanya
Rohilla, Advs

versus

NITIN RANA

.....Respondent

Through: Mr. Nidish Gupta, Adv

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% 12.12.2024

CM APPL. 72920/2024 (Exemption) & CM APPL. 72921/2024 (Exemption)

Allowed, subject to all just exceptions.

Both the applications stand disposed of.

CM(M) 4074/2024 & CM APPL. 72919/2024 (Stay)

1. The petition assails the order dated 08.11.2024 passed by learned ADJ-05, Saket Courts, South-East District, Delhi in RCA DJ 40/2022.
2. The brief facts as submitted by learned counsel are that a Civil Suit for Unlawful Termination and Recovery of Dues was filed by respondent in the year 2014.
3. Petitioner filed written statement raising objections. Issues were framed by the Court. Thereafter, the petitioner was proceeded *ex parte* and *ex parte* judgment was passed by the Civil Judge in favour of the respondent on 10.03.2022.



4. On 29.03.2023, petitioner filed an application under Order IX Rule 13 CPC for setting aside the *ex parte* judgment. The said application is still pending for disposal.
5. In the meanwhile, the respondent had preferred an appeal against the *ex parte* judgment dated 10.03.2022 which is pending before the Court of learned District Judge.
6. Vide impugned order dated 08.11.2024, the learned District Judge in the appeal proceedings closed the right of the respondent to file reply and listed the appeal for final arguments.
7. The grievance of the petitioner is that in case the appeal is decided by the learned District Judge, his application under Order IX Rule 13 CPC may become infructuous.
8. Considering the overall facts and circumstances of the case, in particular the fact that application under Order IX Rule 13 CPC is pending before the learned Civil Judge which passed the *ex parte* decree and an appeal against the *ex parte* judgment is pending before the Appellate Court, it would be more expedient if the application under Order IX Rule 13 CPC is decided prior to the disposal of the appeal.
9. Under these facts and circumstances, the learned Civil Judge is directed to dispose of the application under Order IX Rule 13 CPC in most expeditious manner and preferably on the date already fixed before the Court.
10. The Appellate Court i.e. the Court of learned District Judge-05, Saket Courts, Delhi is directed to defer the hearing on the appeal till the passing of order on application under Order IX Rule 13 CPC.
11. It is further directed that petitioner be given one opportunity to file



reply to the appeal, but petitioner must ensure that such reply is filed by the next date, notwithstanding the pendency of the application under Order IX Rule 13 CPC.

12. Both sides are requested to render their due corporation to both the Courts below, in the expeditious disposal of the application and the appeal.

13. The present petition is disposed of in terms of above order.

RAVINDER DUDEJA, J

DECEMBER 12, 2024

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