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

+ C.R.P. 6/2025 & CM APPL. 1334/2025, CM APPL. 1335/2025

GEETA LUTHRA

.....Petitioner

Through: Mr. A.S. Chandhiok, Sr. Advocate
with Mr. Tarranjit Singh Sawhney,
Ms. Jasmeet Kaur A., Advocates.

versus

S.M. BAGLEY ASSOCIATES PVT. LTD.

.....Respondent

Through: Mr. Hem C. Vashisht, Mr.
Yuganshu Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **14.01.2025**

1. The present revision petition under Section 115 of the Code of Civil Procedure, 1908, has been filed by the defendant in a suit for recovery, which remains pending before the Court of learned District Judge - 06 (South), Saket Courts, New Delhi. The petitioner assails an order of the learned Trial Court dated 25.11.2024, by which four applications have been decided.

2. The principal grievance of the petitioner is that an application of the respondent/plaintiff for recall of an order dated 18.03.2024, by which its evidence was closed, has been allowed. In view thereof, an application filed by the respondent/plaintiff for recall of an order passed by the Local Commissioner, by which he had closed plaintiff's evidence, and an application by the petitioner/defendant seeking dismissal of the suit for



lack of evidence, have been disposed of. The fourth application was for substitution of the plaintiff's authorised representative. That application has been rejected by the learned Trial Court, which is not under challenge.

3. After some hearing, learned counsel for the parties agree that the revision petition may be disposed of by giving peremptory directions for time-bound competition of the plaintiff's evidence, as the suit has been pending since the year 2011, but plaintiff's evidence has not yet been completed. Although the learned Trial Court accepted the plaintiff's request that evidence be led before the Court, it is also agreed that this Court may appoint a retired judicial officer as the Local Commissioner to complete the cross-examination of the plaintiff's witness, and record the evidence to be led on behalf of the defendant.

4. Having regard to the above, the petition, alongwith the pending applications, is disposed of with the consent of learned counsel for the parties, with the following directions:

- A. The impugned order, to the extent that it permits further recording of the plaintiff's evidence, is upheld, subject to the order of costs imposed by the learned Trial Court.
- B. Mr. Vinay Kumar Gupta [Tel: 9910384701], former District Judge, is appointed as the Local Commissioner to record evidence. Learned counsel for the respondent/plaintiff is at liberty to contact the learned Local Commissioner within a period of one week from today to fix the schedule for the completion of the plaintiff's evidence.
- C. The learned Local Commissioner is requested to fix the evidence



expeditiously. Learned counsel for the parties have assured the Court that they will cooperate in the process of recording evidence. The plaintiff's witness is directed to make himself available for cross-examination before the learned Local Commissioner on the date fixed.

- D. Mr. Hem C. Vashisht, learned counsel appearing for the respondent/plaintiff, states that Mr. Saurabh Bagley is the only witness of the plaintiff. Mr. A.S. Chandhiok, learned Senior Counsel for the petitioner, anticipates that the cross examination of the plaintiff's witness will be completed within two sessions spanning one and a half to two hours each.
- E. The matter will be listed before the Trial Court on the date fixed, i.e., 29.03.2025, for further directions. It is expected that the plaintiff's evidence would have been recorded by then, and the defendant would also place her list of witnesses before the Court by the said date.
- F. The learned Local Commissioner will be paid remuneration of ₹10,000/- per session, to be paid by the plaintiff in the first instance, subject to such order of costs as the Court may ultimately make. The costs of the Stenographer and Ahlmad will be fixed by the learned Local Commissioner and will also be borne by the plaintiff at the first instance, subject to adjustment upon final adjudication of the suit.
- G. The learned Local Commissioner may fix the venue for recording of the evidence at his own convenience.
- H. Mr. Chandhiok raises a grievance that the petitioner/defendant has



incurred substantial costs due to delays occasioned by the respondent/plaintiff. Without making any comment on this allegation, it is directed that the Court may consider an appropriate order of costs at the conclusion of the suit.

PRATEEK JALAN, J

JANUARY 14, 2025

“Bhupi/JM”/