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

+ **CM(M) 156/2025 & CM APPL. 4746/2025**

SHIVA INTERNATIONAL THROUGH ITS PARTNER

.....Petitioner

Through: Mr. Summit Kaushal, Advocate

versus

**SUDHIR AGGARWAL
INTERNATIONAL & ANR.**

**PROP. SHREE BALAJI
.....Respondents**

Through: Mr. S.K. Yasishtha and Mr. Sahil
Aeron, Advocates

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

03.11.2025

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1. Petitioner/defendant has assailed order dated 04.09.2024 of the learned trial court, whereby the learned trial court allowed application of the respondent under Order I Rule 10 CPC and impleaded the petitioner in the money recovery suit as a co-defendant. One of the arguments of the petitioner/ defendant is that by the time petitioner was allowed to be impleaded, period of limitation to file suit against the petitioner/defendant had already expired. By way of order dated 25.10.2024, the predecessor bench directed that the trial proceedings shall continue and the same shall be subject to outcome of the present petition.

2. It is informed by both sides that on the issue of limitation, which is at the foundation of the present petition, learned trial court framed a formal



issue and even recorded evidence. This Court recording a decision on this aspect either way would cause prejudice to either side before the trial court in the sense that if it is held by this Court that the impleadment of the petitioner was beyond the period of limitation, the respondent would not be able to contend before the trial court otherwise and *vice versa*.

3. In these circumstances, after some discussion, learned counsel for both sides in all fairness submit that the issue of limitation *qua* impleadment of the petitioner be left open to be decided by the trial court on the basis of evidence already adduced on the concerned issue without being influenced by the order impugned in the present petition. With this mutual understanding, learned counsel for petitioner seeks permission to withdraw this petition with liberty to raise the same arguments as raised in the present petition before the learned trial court.

4. Accordingly, the petition and the accompanying application are dismissed as withdrawn with liberty as sought, making it clear that the learned trial court shall decide the suit without being influenced by the order impugned in the present petition.

GIRISH KATHPALIA, J

NOVEMBER 3, 2025/as