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

+ **CM(M) 2411/2024 & CM APPL. 24348/2024**

RABI GHOSH

.....Petitioner

Through: Mr. Mritunjay Kr. Singh, Mr. Rajnish
Ratnakar and Mr. Saikat Khatua,
Advocates

versus

JAYANTA KUMAR GHOSH

.....Respondent

Through: Mr. Harsh Gupta and Ms. Shivanjali
Gaur, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

03.09.2025

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1. Petitioner herein is defendant before the learned Trial Court and has, primarily, challenged dismissal of his application moved under Order VII Rule 11 CPC. According to learned counsel for the petitioner, suit in question is barred by limitation and such aspect could have been easily decided on the basis of averments appearing in the suit.
2. However, it is apprised that the trial is already over and case is at the stage of final arguments.
3. After hearing some arguments, Mr. Mritunjay Kr. Singh, learned counsel for the petitioner submits that since there is already an issue framed by the learned Trial Court with respect to limitation, without prejudice to his rights and contentions, he would not press the present petition provided it is clarified that the answer to the aforesaid issue of limitation would be without

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being influenced by the observations appearing in impugned order dated 27.10.2023.

4. Mr. Harsh Gupta, learned counsel for respondent has also joined the proceedings through *videoconferencing* and he has no objection to the aforesaid submission. He, however, supplements that in any event, suit is within limitation.

5. Be that as it may, in view of the above, the present petition is hereby disposed of as not pressed.

6. All rights and contentions of the parties are reserved.

7. Learned Trial Court, while adjudicating the suit finally, would decide the issue of limitation in terms of evidence led by the parties, without being influenced by its own order dated 27.10.2023.

MANOJ JAIN, J

SEPTEMBER 3, 2025/dr/js