



\$~55

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

% ***Date of Decision: 22nd May, 2025***

+ **CM(M) 960/2025 & CM APPL. 31535/2025**

SHILPA GUPTA

.....Petitioner

Through: **Mr. Ved Prakash Sharma and Mr.
Mayank Garg, Advocates**

versus

ASHOK KANSAL

.....Respondent

Through: **Mr. Vinod Dahiya, Advocate**

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The point raised in the present petition is very short one.
2. Petitioner herein i.e. Ms. Shilpa Gupta filed a suit for recovery of Rs. 10 lacs.
3. After completion of pleadings, the suit was taken up on 17.12.2024 and issues were framed.
4. While framing the issues, learned Trial Court also directed the plaintiff to file evidence by way of affidavits along with list of witnesses within 15 days, with advance copy to the counsel for defendant and matter was directed to be taken up 21.04.2025.
5. On 21.04.2025, plaintiff, instead, e-filed an application under Order XII Rule 6 CPC which was taken on record and copy of the same was supplied to the opposite side and the matter was fixed for reply/arguments.
6. Fact remains that, simultaneously, the right of the plaintiff to lead



evidence was also abruptly closed, observing that plaintiff had not complied with the order dated 17.12.2024. The impugned order reads as under: -

“1. Ld. Counsel for plaintiff has e-filed an application under Order 12 Rule 6 CPC. Same is taken on record. Copy supplied.

2. Since the plaintiff has not complied with order dated 17.12.2024, his right to lead evidence stands closed.

3. Be put up for filing of reply to the application of the plaintiff under Order 12 Rule 6 CPC with advance copy to the counsel for the plaintiff and arguments on 28.08.2025.”

7. Learned counsel for plaintiff/petitioner herein submits that though the plaintiff could have also prepared affidavit (s) for the purposes of leading evidence, fact remains that since there was a categoric admission in the written statement, instead of leading evidence, she moved an application under Order XII Rule 6 CPC and the learned Trial Court had even issued notice of the aforesaid application and in such a situation, learned Trial Court should not have closed her right to lead evidence, particularly, when it was first date for evidence. He further submits that if, for whatever reason, the application of the plaintiff filed under Order XII Rule 6 CPC is, eventually, dismissed, the plaintiff would be rendered completely remediless as her right to lead evidence has been closed, without appreciating the factual backdrop.

8. Advance copy of the petition was emailed at lawvino.legal@gmail.com on 16.05.2025 and as per the request made by this Court to learned counsel for petitioner herein, he was asked to contact the opposite counsel. Pursuant to such verbal direction given by this Court, learned counsel for petitioner contacted Mr. Vinod Dahiya, Advocate who has joined the proceedings through *videoconferencing* and submits that, though, he has no instructions in the matter, he leaves it to this Court to pass appropriate order in the matter.



9. It is quite apparent that since the plaintiff had moved an application seeking *admission-decree* and since she wanted decision on her application and then to lead evidence, if required, the learned Trial Court should not have, in a summary and hasty manner, closed her right to lead evidence. Moreover, there is no prohibition in law that no such application can be filed after issues are framed.

10. Importantly, when the learned Trial Court had itself given indulgence by issuing notice to the aforesaid application whereby the plaintiff was seeking admission-decree, it should have not insisted for leading evidence. Aspect of adducing evidence might even become redundant, if there is, eventually, a decree based on any such alleged admission.

11. Keeping in mind the overall facts, the present petition is disposed of with direction to learned Trial Court to permit the petitioner/plaintiff to lead evidence, in case the aforesaid application moved under Order 12 Rule 6 CPC does not find favour with it.

12. Needless to say, in case plaintiff is required to lead evidence, she would render her best assistance and co-operation to the learned Trial Court and would submit list of witnesses and affidavits of her witnesses, within the time-frame to be given in this regard by the learned Trial Court.

13. Present petition stands disposed of in the aforesaid terms.

14. All the pending applications are also disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

MAY 22, 2025/dr/shs