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

+ **C.R.P. 325/2023 with CM APPL. 57890/2023**

PRATEEK MITTALPetitioner

Through: Mr. A Mishra, Mr. Sahil and
Mr. Nidish Gupta, Advocates.

versus

SHANKILA MITTALRespondent

Through: Mr. Vishal Gahlayan and Mr. J.K
Ghahlyan, Advocates.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% **30.04.2025**

1. This Court vide order dated 21.3.2025 passed the following directions:

“1. None appears on behalf of the Petitioner.

2. The record reflects that the present Petition has been filed seeking to challenge an order dated 06.09.2023 passed by the learned Additional District Judge-03, Rohini Courts, New Delhi [hereinafter referred to as “Impugned Order”]. By the Impugned Order, the Application under Order VII Rule 11 of the Code of Civil Procedure, 1908 filed by the Petitioner/defendant (before the learned Trial Court) has been dismissed.

3. There were four grounds of challenge raised by the Petitioner in the present Petition:

(i) That the Petition is barred by limitation;

(ii) That this Court has no territorial jurisdiction to entertain the Petition;

(iii) That the transaction is a commercial transaction under the meaning of Section 2(1)(c) of the Commercial Courts Act, 2015; and

(iv) That the suit is barred by the aegis of the Section 3 of the Punjab Registration of Money-Lender’s Act, 1938 [hereinafter referred to as “Punjab Act”].

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4. The learned Trial Court has examined all these contentions and has found that so far as concerns the aspect of limitation, given the fact that the limitation expired in the period during which judgment passed in the suo moto W.P(C) 3/2020 in Re: Cognizance for Extension of Limitation; (2020) 19 SCC 10 was applicable, the suit was not barred by limitation.

4.1 On the second aspect of the matter, it was found that the aspect of jurisdiction would depend on evidence and thus, held that this aspect would be a mixed question of law and fact which requires evidence.

4.2 The learned Trial Court also held that the transaction is not a commercial transaction since it was a friendly loan between two parties who are related to each other and rejected this contention as well.

5. Thus, the contentions qua maintainability under Section 3 of the Punjab Act were also set aside.

6. Prima facie, the examination of the Impugned Order shows that there is no infirmity with the same

7. However, in the interest of justice, list on 30.04.2025.”

2. Learned Counsel for the Petitioner appears today and seeks permission of the Court to withdraw the present Petition with liberty to agitate all its contentions before the learned Trial Court.

3. Accordingly, the Petition is dismissed as withdrawn with liberty, as prayed for, *albeit* in accordance with law.

4. It is, however, made clear that the Court has not examined the matter on merits. The rights and contentions of both the parties are left open in this behalf.

5. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

APRIL 30, 2025/PB

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