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

+ CM(M) 387/2023 & CM APPL. 11569/2023

S. PAWAN DEEP SINGH & ANR.

..... Petitioners

Through: Mr. Ankit Jain and Mr. Mohit Gupta,
Advocates

versus

IBRAR AHMAD

..... Respondent

Through: Mr. Kunal Kalra, Advocate alongwith
Respondent in person

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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28.11.2023

1. This petition filed under Article 227 of Constitution of India impugns the orders dated 03.06.2022, 14.10.2022 and 11.01.2023 passed by the ASCJ – cum – JSCC – cum – GJ, South District, Saket Courts, New Delhi in CS SCJ No. 82852/2016, titled as '**Ibrar Ahmad v. S. Pawan Deep Singh and Anr.**'.

1.1. The Petitioner Nos. 1 and 2 are defendant nos. 1 and 2 respectively, the Respondent is the plaintiff in the civil suit.

1.2. The opportunity to cross examine PW-2 was closed by the Trial Court on 03.06.2022, the application under Order XVIII Rule 17 Code of Civil Procedure, 1908 ('CPC') seeking recall of PW-2 was dismissed on 14.10.2022 and the application under Order XLVII Rule 1 of CPC seeking review of the order dated 14.10.2022 was dismissed on 11.01.2023.

2. The parties are being referred to in this order by their rank and status in the suit.



3. This Court has perused the record. It is apparent from the record that PW-2 was examined by the plaintiff on 11.03.2020 and thereafter, she was present for her cross examination on 03.06.2022, when due to the non-presence of the counsel for the defendants, the right of the defendants to cross-examine PW-2 was closed.

4. After some arguments, with the consent of the parties, the defendants are granted one final opportunity to cross-examine PW-2 on the following terms: -

4.1. The defendants will pay costs of Rs. 20,000/- to the plaintiff within two (2) weeks i.e., on or before 12.12.2023;

4.2. Subject to the defendants paying said costs within the time granted by this Court, PW-2 shall remain present before the Trial Court on 22.12.2023 for her cross examination; and

4.3. The defendants will conclude the cross examination of PW-2 on said date. However, if the Trial Court is of the opinion that defendants require further opportunity, the Trial Court may as per its own discretion, permit the defendant one (1) additional date to cross examine PW-2 and no further.

5. It is made clear that if the defendants fails to pay the costs and/or conclude the cross-examination of PW-2 on the date mentioned hereinabove, the opportunity granted by this Court shall stand closed and the Trial Court's order dated 03.06.2022, will come into operation.

6. With the aforesaid directions, the present petition is disposed of.

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 28, 2023/rhc/aa

Click here to check corrigendum, if any