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

Date of decision: 06.10.2023

+ CM(M) 1392/2018

VIJAY KUMAR Petitioner

Through: Mr. S.K. Bhalla, Advocate

versus

C S VALSALA KUMARAN NAIR Respondent

Through: Mr. A. Maitri and Ms. Radhika
Chander Sekhar, Advocates

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

CM APPL. 47586/2018 (For Exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

CM(M) 1392/2018

1. This petition filed under Article 227 of the Constitution of India impugns the order dated 13.08.2018 and 17.09.2018 passed by the Additional District Judge -02, West, Delhi in civil suit bearing no. 116/27/15 (New No. 609668/2016) titled as **Vijay Kumar v. C.S. Valsala Kumaran Nair** ('Trial Court').

1.1. The Petitioner is the original plaintiff and the Respondent is the



original defendant in the said civil suit.

1.1. The Trial Court vide order dated 17.09.2018 rejected the application of the Petitioner for recalling of the order dated 13.08.2018, wherein the right of the plaintiff to file affidavit of the witnesses by way of evidence of examination in chief was closed.

1.2. The civil suit has been filed by the Petitioner under order XXXVII of Civil Procedure Code, 1908 (CPC) for recovery of the total amount of Rs. 48,482,95/- against the Respondent.

2. With the consent of the parties, the said orders are set aside on the following terms: -

- i. Learned counsel for the plaintiff states that with reference to the list of witnesses filed as annexure P-7 to this petition, the plaintiff does not propose to examine the witness listed at Serial Nos. 3, 12, 13, 14 and 15.
- ii. He states that the plaintiff only proposes to examine the witnesses listed at Serial Nos. 1, 2, 4, 5, 6, 7, 8, 9, 10 and 11.
- iii. He states that the plaintiff has already filed the evidence affidavit of witness No. 1 i.e., the plaintiff himself.
- iv. He states that the evidence affidavit of proposed witnesses listed at Serial Nos. 2, 8, 9, 10 and 11 will be filed and served on the counsel for the defendant within a period of four (4) weeks.
- v. He states that no other witness is proposed to be examined.
- vi. He states that the plaintiff will duly cooperate with the Trial Court in recording of the evidence and not seek adjournments.
- vii. He states that the witnesses at Serial Nos. 4, 5, 6 and 7 have to be summoned and the plaintiff will take steps to summon the said witnesses after the evidence of witness enlisted at Serial Nos. 1 and 2 stands



concluded.

3. Learned counsel for the defendant states that he has no objection to the aforesaid schedule proposed by the plaintiff.
4. The Petitioner and the Respondent are bound down to the statements made before this Court.
5. The matter is listed before the Trial Court on 19.10.2023.
6. The parties are directed to appear before the Trial Court on the said date and the learned Trial Court is requested to fix the matter for recording the evidence of the plaintiff on the said date.
7. With the aforesaid directions, the present petition is allowed in the aforesaid terms. Interim orders stand vacated.
8. Pending Applications, if any, shall stand disposed of.

OCTOBER 6, 2023*/rhc/ms*

MANMEET PRITAM SINGH ARORA, J

Click here to check corrigendum, if any