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

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

+ CM(M) 2543/2024 & CM APPL. 42389/2025 & CM APPL.
42367/2025

RAKESH KUMAR SHARMA

.....Petitioner

Through: Mr. P. Singh Bindra, Sr. Advocate
with Mr. Rakesh Kumar Sharma,
Advocates along with petitioner in
person.

versus

SHRISH DUTT

.....Respondent

Through: Mr. Archit Arora, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner herein is defending a Suit for Mandatory and Permanent Injunction.
2. On various different occasions, the defendant was burdened with cost by the learned Trial Court, for one reason or the other.
3. Such cost accumulated to Rs. 17,500/- as per the Trial Court Record though, according to learned Senior Counsel for the petitioner, the unpaid cost is Rs.16,500/-.
4. Be that as it may, fact remains that since the cost remained unpaid and since the application moved by the petitioner seeking waiver of the cost had also been dismissed, the defence of the defendant was struck-off on account of non-payment of cost and the case has, accordingly, been fixed up for final



arguments.

5. The present petition has been filed seeking setting aside of order dated 08.04.2024 as well as 18.04.2024 whereby the cost has not been waived.

6. Learned counsel for respondent/plaintiff has also appeared.

7. When the matter was taken up by this Court on the last date of hearing, it was asked whether the petitioner was ready to clear the entire unpaid cost so that, his defence is restored and learned counsel for respondent/plaintiff was also requested to take requisite instructions in this regard from the plaintiff.

8. Learned counsel for the plaintiff (respondent herein) submits that he has taken requisite instructions and his client would have no objection if the petitioner is directed to clear the unpaid cost within two weeks and, simultaneously, he is also burdened with some additional cost. He also submits that the case is already at the stage of final arguments and once the defence is restored, the trial would start *de novo*.

9. After hearing arguments for some time and with consent of the learned counsel for both the parties, the present petition is disposed of with the directions that the defence of the defendant would stand restored on his making payment of total cost of Rs.20,000/- within two weeks from today. Out of the abovesaid cost of Rs.20,000/-, a sum of Rs.15,000/- shall be payable to the plaintiff and the rest of the amount would be deposited with the concerned Delhi Legal Services Authority.

10. It is, however, clarified that under no circumstances, the abovesaid period of two weeks for clearing the cost/depositing of the cost shall be extended. In case, the amount is deposited/paid, as directed above, the defence of the petitioner would stand restored and he would be also permitted to cross-examine the witnesses of the plaintiff.



11. Impugned order would also reflect that since the defence of the defendant had been struck off, the plaintiff also did not press his application moved under Order XI Rule 12 & 14 CPC. Therefore the abovesaid application would be permitted to be revived by the plaintiff and the same would also be considered by the learned Trial in accordance with law, after giving due opportunity of hearing to both the sides.

12. The suit in question was filed in the year 2014 and has already got delayed considerably and, therefore, learned Trial Court is requested to make best endeavour to dispose of such suit, as expeditiously as possible and, preferably, within one year from today.

13. The petition stands disposed of in aforesaid terms.

14. The date already fixed i.e. 17.10.2025 is cancelled.

15. Pending applications also stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 22, 2025/ss/SS