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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% **Date of Decision: 30<sup>th</sup> April, 2025**

+ CM(M) 4121/2024  
RAJESH

.....Petitioner

Through: Mr. Anubhav Dadhich, Advocate.

versus

SUNIL GANGWAL

.....Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ JAIN**

**J U D G M E N T (oral)**

**CM APPL. 25691/2025 (seeking early hearing)**

1. Petitioner seeks early hearing and disposal of the petition in question.
2. Learned counsel for petitioner submits that in view of the fact that there is clear-cut admission made by the defendant, it is a fit case where the learned Trial Court should have allowed his application moved under order XII Rule 6 CPC.
3. In view of the request made by the learned counsel for petitioner, the matter is taken up today itself.
4. Application stands disposed of accordingly.

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5. Petitioner had filed a suit seeking recovery of Rs.6.90 lacs against the defendant. The suit was earlier filed under Order XXXVII CPC but on the request of the plaintiff himself, the suit was converted into an ordinary one.
6. Admittedly, the written statement has already been filed by the



defendant and he was also examined by the learned Trial Court under Order X CPC read with Section 165 of the Indian Evidence Act (Section 168 of Bhartiya Sakshya Adhiniyam, 2023). Based on his such examination, the plaintiff contends that, since, there is clear cut and unambiguous admission with respect to the execution of *pro-note* in question, there was no reason for the learned Trial Court to have dismissed the application.

7. Right here, this Court would clarify that the power vested with any such Court under Order XII Rule 6 CPC is discretionary in nature and no party can claim admission decree, as a matter of right. Reference in this regard be made to *S.M. Asif v. Virender Kumar Bajaj: 2015 SCC OnLine SC 717* wherein the Hon'ble Supreme Court has held as under:-

*“8. The words in Order 12 Rule 6 CPC “may” and “make such order ...” show that the power under Order 12 Rule 6 CPC is discretionary and cannot be claimed as a matter of right. Judgment on admission is not a matter of right and rather is a matter of discretion of the court. Where the defendants have raised objections which go to the root of the case, it would not be appropriate to exercise the discretion under Order 12 Rule 6 CPC. The said rule is an enabling provision which confers discretion on the court in delivering a quick judgment on admission and to the extent of the claim admitted by one of the parties of his opponent's claim.”*

8. Obviously, the case of the petitioner is based on the *pro-note* and he claims that he had given a sum of Rs.6.90 lacs in cash. Such transaction in cash is in teeth of the specific provision contained under Section 269ST of Income Tax Act, 1961.

9. Be that as it may, fact remains that when the written statement was filed by the defendant concerned, he, though, in para 7 of his such written



statement admitted that he had filled up the *pro-note* on the assurance of meeting-members but he, also, in no uncertain terms contended that he had no dealing, whatsoever, with the plaintiff.

10. According to him, he had taken a sum of Rs.50,000/- from one Mr. Vijay Kirar, who is brother of the plaintiff and when, he was asked to return the money, said Mr. Vijay Kirar gathered some persons and then it was decided in the meeting that defendant would give some cheques and a *pro-note* in the name of Mr. Vijay Kirar.

11. He, though, admitted that the *pro-note* was filled up by him but he also contended that the liability was only of Rs.50,000/- and such amount he owned to the brother of the plaintiff and not to the plaintiff. His examination under Order X CPC is also, more or less, consistent with the averments made by him in the written statement.

12. Merely, because he admits that the *pro-note* is in his hand and bears his signatures would not, automatically, entitle the petitioner to have admission decree, straightaway.

13. It is not appropriate to take out one line in isolation. The stance of the defendant has to be read in *toto* and comprehensively.

14. The Court has gone through the impugned order dated 22.10.2024 and it is noticed that the learned Trial Court has also given due consideration to all such aspects of the case. It also observed that though, the presumption might be in favour of the plaintiff but the defendant cannot be denied any opportunity to lead evidence to discharge the burden placed on him under the law.

15. Be that as it may, keeping in mind the specific stand taken by the defendant in his written statement as well as in his statement made before the



learned Trial Court, it cannot be said that there is clear, unequivocal and unambiguous admission with respect to the case set up by the plaintiff.

16. As already noted above, the defendant is very specific in his stand and, according to him, there is no transaction between him and the plaintiff.

17. The discretionary power has been exercised by the learned Trial Court, appropriately, and there is no illegality or perversity in the impugned order, necessitating any interference by this Court by invoking its supervisory powers under Article 227 of the Constitution of India and, resultantly, the petition is dismissed.

18. All the pending applications also stand disposed of.

19. The next date i.e. 29.08.2025 stands cancelled.

**(MANOJ JAIN)**  
**JUDGE**

**APRIL 30, 2025/ss/js**