

9CS423/2014 1234/16SANDHYA GUPTA

Vs. RANI BANSAL

24.08.2024

Present : Sh. Ashish Chaudhary, Ld. Counsel for the plaintiff.

Sh. Rupesh Kumar, Ld. Counsel with the defendant, submits a copy of the Order, dated 31.07.2024, passed by the Hon'ble High Court of Delhi in CM(M) 1972/2023 & CM (APPL.) 61669/2023, directing this Court not to pronounce the judgment till the next date and next date of hearing in the said matter is 28.10.2024.

He further submits that he has moved an application U/o 18 rule 17 CPC, seeking recall of DW1 Smt. Rani Bansal, which is pending consideration. Sh. Chaudhary submits that he does not want to file any formal reply to the application and further submits that once the matter is fixed for addressing final arguments by the parties, then no such application or any other application can be moved legally. He also submits that the application U/o 18 rule 17 CPC cannot be utilized to fill up a lacunae left by a party in its evidence and rather, the rule gives power to the Court to seek clarification from a witness if it finds necessary in the interest of justice. He further submits that the matter has been languishing for addressing final arguments by the parties since 30.11.2023, on the other hand, Sh. Rupesh Kumar submits that a written statement was filed in the matter, which was duly signed by deceased Sh. Saurabh Bansal, the son of the defendant, who unfortunately expired on 26.01.2024 and the application has been necessitated as the defendant has executed an Special Power of Attorney and in the event of demise of Sh. Saurabh Bansal, the same has to be

proved and placed on record to ratify the written statement filed in the matter. Sh. Chaudhary, in rebuttal submits that the application under Order 18 rule 17 CPC has even been moved prior to the demise of Sh. Saurabh Bansal and therefore, reeks of ulterior motive of the defendant.

Put up on **07.09.2024** for further consideration/clarifications/order.

(Sanatan Prasad)
District Judge-02 (East)
Karkardooma Courts/Delhi/24.08.2024