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

+ **CM(M) 1100/2025 & CM APPL. 37241/2025**

PARUL BAWA

.....Petitioner

Through: Mr. Satish Kumar and Mr. Ravi Kumar, Advocates with petitioner in person.

versus

MOHIT GANDHI

.....Respondent

Through: Mr. Prateek Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

27.10.2025

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1. The petitioner/defendant has assailed order dated 20.03.2025 passed by the learned trial court, whereby application of the petitioner/defendant under Section 11 CPC was dismissed, holding that the issue involved is a mixed question of law and fact.
2. It is contended by learned counsel for petitioner/defendant that the impugned order is not sustainable because the earlier suit as well as the subject suit was for the same declaration and the earlier suit was dismissed after a full dress trial, because the respondent/plaintiff could not prove his case. In this regard, learned counsel for petitioner/defendant has also taken me through paragraphs 19-21 of the judgment of the earlier suit. According to petitioner/defendant, the present suit cannot be allowed to continue.
3. Learned counsel for respondent/plaintiff appearing on advance



intimation accepts notice and contends that the present petition deserves to be summarily dismissed on account of concealment that the order presently impugned was also challenged by way of an appeal, numbered MCA DJ No. 10/2025, which was dismissed as withdrawn vide order dated 07.05.2025 of the learned District Judge.

4. In this regard, learned counsel for petitioner/defendant submits that the said appeal was an appeal under Section 341 CrPC and not an appeal challenging the order impugned in the present case. But if that was so, it is not clear as to why the said appeal was assigned to a District Judge instead of the Court of Sessions.

5. In view of above circumstances, learned counsel for petitioner/defendant seeks and is allowed to place on record copy of the proceedings which were registered as MCA DJ No.10/2025 along with a duly sworn affidavit of the petitioner/defendant within two weeks.

6. Relist on 13.11.2025 in Advance List.

GIRISH KATHPALIA, J

OCTOBER 27, 2025/ry