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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 927/2013 & I.A.Nos.13137/2013, 15258/2013, 3306/2018
ANKUR BALI Plaintiff

Through Mr.Amit Sanduja, Advocate.

versus

MADHU Defendant
Through Mr.U.S.Chaudhary, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

ORDER
% **09.07.2018**

The present case has been listed in pursuance to an office note.

The said note reads as under:-

“Ref. order dt.1-6-2018 of Learned Local Commissioner placed in part-IV A of file at page no.26-27, the file may be placed before the Hon’ble Court on 9-7-2018 for further directions in the matter. Hence, the case may be listed before the Hon’ble Court for 9-7-2018.”

The order dated 01st June, 2018 passed by the Local Commissioner is reproduced hereinbelow:-

“Case was fixed for further cross examination of DW-4 Smt. Madhu, the defendant on 29.05.2018 but recording of cross examination could not take place since as per the information given by Ld. Counsel for the defendant, she was unwell. Today also she is not present and Ld. Counsel for the defendant submits that said witness will not be able to appear even tomorrow i.e. 02.06.2018, the date already fixed. Ld. Counsel for the defendant submits that he had taken steps for



summoning two witnesses for today. In any case, even the said summoned witnesses are not present. Ld. Counsel for the plaintiff submits that before conclusion of the remaining cross examination of DW-4 Smt. Madhu, the defendant, evidence of the summoned witnesses should not be recorded.

Part cross examination of DW-4 Smt. Madhu, the defendant, was lastly recorded on 26.09.2017. Ld. Counsel for the plaintiff submits that the matter be placed before the Hon'ble Court.

In view of the aforesaid the file may be placed before the Hon'ble Court on 09th July, 2018 for further directions in the matter. Original order sheet has been handed over to the staff who has brought the judicial file, for placing the same therein and copies have been supplied to the Ld. Counsel for the parties."

This Court had framed a limited issue on 19th March, 2015. Since the onus of proving the said issue was placed on the defendant, she was directed to lead her evidence.

It is indeed shocking to note that despite the lapse of three years, the defendant's evidence has not been completed till date.

Keeping in view the fact that the defendant has not been leading her evidence as well as the fact that she has not produced the medical certificate to show that DW-4 was unwell on 29th May, 2018, 01st June, 2018 and 02nd June, 2018, this Court saddles the defendant with costs of Rs.50,000/- to be paid to the Lok Nayak Hospital, New Delhi within four weeks. The receipt of payment shall be filed within one week thereafter.

It is made clear that the Local Commissioner shall fix the date for recording the evidence of DW-4 on a date on which the said



witness will be available. In the event, the witness is not available on the said date, the Local Commissioner shall close the evidence of the defendant.

List the matter before the Local Commissioner for directions on 20th July, 2018. The Local Commissioner is directed not grant any adjournment on any ground.

List the matter before Court for monitoring of evidence on 26th September, 2018.

MANMOHAN, J

JULY 09, 2018
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