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

+ **CS(OS) 3560/2014 and I.A. 8785/2024**

RAKESH KUMAR SINGH

..... Plaintiff

Through: Mr. Raaj Malhotra, Advocate along
with Ms. Pranjal Abrol, Advocate
(M: 8222875696).

versus

GATI LTD

..... Defendant

Through: Mr. Shankar Kr. Jha, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **23.04.2024**

1. This hearing has been done through hybrid mode.

I.A. 8785/2024 (u/O VII Rule 11 CPC)

2. This is an application filed on behalf of the Plaintiff-Mr. Rakesh Kumar Singh under Order VII Rule 11 of the CPC, 1908 seeking rejection of the counter claim filed in **CS(OS) 3560/2014**.

3. It is stated in the application that the Plaintiff herein filed a suit for recovery of Rs. 40,24,183/- along with interest ,aggrieved by the pending arrears in salaries, HRA, gratuity, etc.

4. The ground taken by the Plaintiff is that the counter-claim filed by the Defendant-Gati Ltd. does not disclose a cause of action.

5. It is noticed that the suit in this case was filed in 2014. Issues were framed on 2nd May, 2018. The suit is at the stage of Plaintiff's evidence.

6. The Plaintiff has not led evidence in this matter, though the affidavit in evidence has been filed by the Plaintiff as directed vide order dated 27th



August, 2019, 19th December, 2019 and 20th February, 2023. Repeated adjournments have also been sought on behalf of the Plaintiff on 19th December, 2019, 6th September, 2023 and 22nd December, 2023. In fact, costs have also been imposed on the Plaintiff vide order dated 19th December, 2019.

7. One of the issues which has been framed is whether the Counter Claimant/Defendant herein does not disclose cause of action. In respect of the said issue, the onus has been fixed on the Defendant.

8. According to Id. Counsel for the Plaintiff, counterclaim itself is not maintainable as the same does not disclose a cause of action.

9. It is made clear that since the matter is at the stage of trial, at this stage, the decision in the application would have an adverse effect on the final adjudication of the suit. Accordingly, parties are directed to expeditiously record their respective evidence. The application under Order VII Rule 11 CPC, 1908 is highly belated. The Plaintiff is however free to lead evidence that the counterclaim is not maintainable.

10. Application is disposed of.

CS(OS)-3560/2014

11. List before the Joint Registrar on 26th July, 2024 i.e. the date already fixed.

PRATHIBA M. SINGH, J

APRIL 23, 2024

mr/rks