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

CNR No. DLHC010414842026

+ CM(M) 1944/2026, CM APPL. 59455/2026 & CM APPL.
59456/2026

DILBAGH SINGH

.....Petitioner

Through: Ms. Aditi Drall and Mr. Ravi Drall,
Advocates.

versus

DEEPAK GANDHI

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER

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03.09.2026

1. Through the present petition, the petitioner seeks waiver of the cost of Rs. 25,000 imposed *vide* order dated 18.07.2026 passed by the learned Trial Court of Sh. Manoj Kumar Sharma Jd. District Judge -07, West Distt., TisHazari Court in CivDJ/247/2024.
2. The respondent/plaintiff has instituted the underlying civil suit wherein summons was stated to have been served on 17.05.2024 and 18.05.2024. The petitioner/defendant filed his written statement along with application for condonation of delay, and the same was taken on record on 26.09.2024. The learned trial court proceeded to frame six issues *vide* order dated 24.03.2025 and posted the matter for PE on 14.07.2025.
3. The matter was taken up for PE on 14.07.2025 but was adjourned for 18.10.2025 at the petitioner's request. On 18.10.2025, PW-1 was partially



cross examined, and the matter was adjourned for 21.02.2026 for remaining cross-examination. On 21.02.2026, due to the ongoing elections of the Bar Council of Delhi, the petitioner was unavailable for the remaining cross-examination, and the matter was posted for 16.05.2026, and on 16.05.2026, the petitioner was unavailable due to which PE closed, and the matter was listed for DE on 18.07.2026.

4. Meanwhile, the petitioner filed an application under Order IX Rule 7 of the Code of Civil Procedure, 1908 seeking setting aside of the order dated 16.05.2026 and granting one last opportunity to cross-examine PW-1. The petitioner contended *inter-alia* that the absence of the main counsel for the petitioner was unintentional as the main counsel was 8 months pregnant at the relevant time, and before that, on 21.02.2026, the main counsel had gone to cast her vote in the BCD election.

5. The application came to be allowed *vide* order dated 18.07.2026, however, subject to cost of Rs. 25,000 payable to the counsel of the respondent.

6. The learned counsel for the petitioner has submitted that despite the 'sufficient cause' as shown in the Order IX Rule 7 application, the learned trial court has erred in imposing extravagant costs of Rs. 25,000. She has further submitted that the petitioner, or even their counsel cannot be subjected to punitive costs for the counsel's maternity, a right which is constitutionally protected.

7. Without entering into the merits of the present case, in the present case, the petitioner's counsel had been advised bed rest, which constitutes sufficient cause for the absence. While the imposition of costs is intended to serve as a deterrent against avoidable defaults and to reasonably compensate



the aggrieved party, the petitioner ought not to be burdened with heavy costs of ₹25,000/-, particularly when sufficient cause for the absence has been duly demonstrated.

8. Accordingly, the cost imposed in the impugned order is waived. The impugned order to the extent that it conditions the cross-examination to cost of Rs. 25,000 payable to the counsel of the respondent is set aside.

9. The present petition is allowed and the petition, along with applications, if any, are disposed of.

AJAY DIGPAUL, J

SEPTEMBER 3, 2026

Sk/sg