

#A-71

% 24.10.2011

Present: Mr. M. Mohsin, Advocate for the petitioner.

+CM No. 19752/2011 in CM (M) No. 1263/2011

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Exemption allowed subject to just exceptions.

CM (M) No. 1263/2011 and CM No. 19751/2011 (stay)

The order impugned before this court is the order dated 24.08.2011; petitioner is aggrieved by that part of this order whereby DW5 and DW6 who were summoned witnesses have been examined and discharged; this was on 15.03.2011; contention of the petitioner before this court is that these witnesses who were summoned witnesses had to exhibit more than the documents which have been exhibited in their testimony; their testimony could not be recorded by the petitioner/defendant as the counsel was busy in Saket Court; the said witnesses have not exhibited the entire documentary evidence which has been relied upon by the petitioner/defendant.

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

Record shows that on the said date i.e. on 15.03.2011, the court had examined DW 5 and DW 6 and discharged the said witnesses; court had noted that the counsel for the defendant in spite of a pass-over was not present. Both the witnesses were summoned from the Office of the Sub-Registrar, Delhi; court had noted that this was one more delaying tactic on the part of the defendant.

However, in view of the submissions urged before this court and the undertaking given by the petitioner that he will ensure the presence of DW 5 and DW 6 and summon these witnesses at his responsibility for the next date, he is permitted to summon them (i.e DW 5 and DW 6); the Trial Court shall give no unnecessary adjournment. Next date fixed before the Trial Court is 16.11.2011. Trial Court will ensure that both the witnesses namely DW 5 and DW 6 are produced before the court on 16.11.2011 for recording their version; needless to state that this is to obviate the impression which has been created in the mind of this court as well that this should not be the delaying tactic on

the part of the defendant. This order is passed subject to payment of ₹ 5,000/- as cost.

Petition is disposed of.

Dasti.



INDERMEET KAUR, J

October 24, 2011/rb