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

CNR No. DLHC011094782025

+ **CM(M) 248/2026 & CM APPL. 6765/2026**

ANITA SHARMA

.....Petitioner

Through: Ms. Sujata, Mr. Ankit Rai and
Mr. Abhishek Sharma, Advs.

versus

RAGHU NANDAN SHARMA

.....Respondent

Through: Mr. Jai Praksh Sharma and Mr. Ankit
Julha, Advs.

CORAM:

HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER

21.08.2026

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1. Through the present petition, the petitioner seeks setting aside the impugned order dated 05.11.2024 passed by the learned Trial Court in CS SCJ 1259/2017 whereby the right of the petitioner/defendant to cross examine PW-1 was closed, and order dated 27.01.2025 whereby the review application filed against the order dated 05.11.2024 was dismissed.

2. The brief facts of the present case are as follows-

3. The respondent instituted the underlying civil suit for permanent and mandatory injunction seeking possession of the property bearing no. F-8/1, First Floor, Bhagwan Pura, Samaypur, Delhi. It is stated that the issues were framed on 23.02.2019, and on 03.04.2019 matter was fixed for PE. It is stated that from 2019 to 2024, due to numerous reasons, the PE could not be concluded.



4. The learned trial court on 09.07.2024, subject to payment of cost of Rs. 5,000 and on the petitioner's request, adjourned the matter for cross-examination of PW-1 to 05.11.2024.
5. On 05.11.2024, the main counsel for the petitioner was unavailable. The learned trial court while noting that sufficient opportunities had been given to cross examine PW-1, and that the cost imposed *vide* order dated 09.07.2024 was unpaid, closed the right to cross examine PW-1. Aggrieved, the petitioner preferred an application under Order XLVII CPC seeking review of the order dated 05.11.2024.
6. The review application was dismissed vide order dated 27.01.2025, whereby the learned Trial Court observed that the petitioner's plea that he was advised bed rest on account of an eye ailment was not substantiated by any medical document. The Court further noted that the matter had been pending for PE since 2019 and that several opportunities had already been granted to the petitioner. Aggrieved by the said order, the petitioner has invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.
7. The learned counsel for the petitioner, while relying on the annexed medical documents, has submitted that the learned trial court has erred in failing to appreciate the severity of the petitioner's ailments, and has taken a myopic view by holding that the medical documents do not mandate bed rest.
8. He has further submitted that it is also settled law that the litigant ought not to be punished for the acts of the lawyer, especially when the acts were due to unforeseen circumstances and severely impinge on the substantive rights of the litigant.



9. After some arguments, learned counsel for the respondent, upon asking of this Court agrees that the right of cross-examination may be granted as a matter of last chance subject to heavy cost.

10. This Court is of the view that cost of Rs. 5,000/-, over and above any unpaid costs as imposed by the learned trial court, payable to the learned counsel for the respondent, will suffice the purpose. Last and final opportunity is granted to the petitioner to cross-examine the witness on the date which is fixed by the learned Trial Court.

11. Accordingly, the petition, along with pending application(s), if any, is disposed of.

12. It is made clear that this Court has not gone into the merits of the matter.

AJAY DIGPAUL, J

AUGUST 21, 2026/ar/sg