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

+ CM(M) 532/2017

ORCHID INFRASTRUCTURE PVT LTD Petitioner

Through: Mr.Manish Sharma & Mr.Pranay Raj
Singh, Advocates.

versus

W H WINTECH PVT LTD Respondent

Through: Proxy counsel (Appearance not given)

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **12.05.2017**

CAV 476/2017

1. Proxy counsel appears on behalf of the respondent and submits that the main counsel is busy in the Hon'ble Supreme Court.
2. With the appearance of the proxy counsel for the caveator, the caveat stands discharged.

CM No.18041/2017

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

CM(M) 532/2017

1. By this petition the petitioner has invoked the jurisdiction of this Court under Article 227 of the Constitution of India impugning the order dated 22nd April, 2017, passed by learned ADJ in CS No.58274/21016, whereby the right of the petitioner to cross-examine PW-1 has been closed.

2. The petitioner has made the following prayer:

- 'a) Set aside the impugned order dated 22.04.2017 passed by Sh.Mukesh Kumar-02, ADJ Patiala House Court, New Delhi in Suit No.58274/2016 and permit the petitioner herein to cross examine the witness PW 1 of the respondent.*
- b) Pass any other such order as this Hon'ble Court may deem fit and proper in the interest of justice.'*

3. Learned counsel for the respondent/plaintiff submits that despite the fact that PW-1 was not cross-examined on behalf of the defendant and repeated adjournment have been sought for cross examination of PW-1, Sh.Jitender, to give fair chance to the petitioner and to avoid further delay, the respondent has no objection if one opportunity is granted to the petitioner/defendant to cross examine PW-1, subject to such terms as may be deemed fit by the Court.

4. Learned counsel for the petitioner submits that petitioner is ready to abide by the terms and conditions imposed by this Court for granting one opportunity to cross examine PW-1.

5. The prayer of the petitioner to cross examine PW-1 Sh.Jitender is allowed, subject to cost of Rs.10,000/- to be paid to the learned counsel for the respondent. The cost shall be paid on or before 17th May, 2017 which is stated to be the date of hearing before the learned Trial Court. The respondent/plaintiff shall produce PW 1 Sh.Jitender before the learned Trial Court, for cross examination on 17th May, 2017.

6. At this stage, learned counsel for the respondent/plaintiff submits that PW-1 is presently out of station and if he is unable to appear on 17th May, 2017 he shall be produced on a date fixed by the learned Trial Court for P.E.

7. The petitioner/defendant shall ensure cross examination of PW-1 on

the date the witness appears in the Court. It is made clear to the petitioner that only one opportunity shall be given to the petitioner for cross examination of PW-1.

8. If the cost is not paid on or before 17th May, 2017, the petition shall stand dismissed.

9. The petition is disposed of in the above terms.

10. Copy of the order be given dasti to the learned counsel for the parties, as prayed.

CM No.18040/2017 (stay)

Dismissed as infructuous.

PRATIBHA RANI, J.

MAY 12, 2017
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