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

+ CM(M) 946/2018

D S CONSTRUCTION LTD

..... Petitioner

Through: Mr. Deepak Khurana and
Mr. Abhishek Bansal, Advs.

versus

M/S SRG METAL CRAFTS (I) PVT LTD & ANR..... Respondents

Through: Mr. Naresh Kumar, Advocate along
with Mr. Vipin Behl (AR)

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

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22.10.2018

1. In this petition under Article 227 of the Constitution of India, the petitioner has assailed the order dated 16.05.2018 and 30.07.2018 passed by the Court of District Judge, North West, Rohini. The Civil Suit was listed for defendant/petitioner's evidence on 21.08.2017. Since no evidence was present, DE was closed on the said date. This order was set aside on application of defendant by the Trial Court on 17.01.2018 and the defendant/petitioner was given opportunity to lead its evidence on 05.03.2018. Again, the petitioner did not bring its evidence on date fixed and the evidence of the defendant/petitioner was closed. This order dated 05.03.2018 was also set aside by the Trial Court giving another opportunity to the petitioner to lead its

evidence on 11.04.2018 subject to payment of Rs.35,000/- as costs on 16.05.2018. Though, DW Sh. Pankaj Kumar Singh was present in the Court on 16.05.2018, he submitted that he would pay the costs on the next date of hearing. In the circumstances, the Trial Court closed the petitioner's evidence and listed the matter for final arguments for 30.07.2018.

2. Thereafter, on the same day i.e. 16.05.2018, the learned counsel for the petitioner moved an application for waiver of the costs of Rs.35,000/- and the counsel was apprised to the order passed in the forenoon.
3. The petitioner moved another application before the Trial Court for recalling of the order dated 16.05.2018 to waive of the costs and permission to adduce evidence. By a detailed order dated 30.07.2018, the Ld. District Judge finding no merit, dismissed the application with further costs of Rs.50,000/-.
4. It is submitted by learned counsel for the petitioner that the matter is now listed for 26.10.2018 for addressing arguments on behalf of the petitioner. He submits that the petitioner may be granted only one opportunity to adduce its evidence and they shall examine only one witness Sh. Subodh Kumar, its Assistant Legal Manager, and shall not seek any other date.
5. In the circumstances, the petition is disposed of with the directions that in case the petitioner brings the said witness on the next date of hearing before the Trial Court, he shall be examined subject to payment of costs on the said date imposed by the Trial Court. In case, the petitioner does not pay the cost of Rs.85,000/- or does not bring

the said witness, the Trial Court shall proceed to hear further arguments and decide the case in accordance with law.

OCTOBER 22, 2018

"sandeep"

VINOD GOEL, J.