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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1107/2018, CM APPL.37712-37713/2018
ORIENTAL INSURANCE CO LTD

..... Petitioner

Through: Mr.Ashim Vachher and Mr.Sumeet,
Advocates.

versus

BISHAMBER DAS MAHABIR PERSHAD JAIN & ORS

..... Respondent

Through: Mr.Siddharth Awana and Mr.Sahil
Gupta, Advocates.

CORAM:
HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **26.11.2018**

This petition challenges the orders dated 14.03.2018 and 21.08.2018 passed by the learned Trial Court against the petitioner/defendant. Learned counsel for the petitioner/defendant alleges evidence of petitioner was closed on the very first effective date.

Initially, the matter was listed for plaintiff evidence on 05.03.2010 and it was concluded somewhere in the year 2017. On 01.05.2017 the defendant was directed to lead the evidence and the matter was posted for 09.02.2018 on which date learned Presiding Officer was on leave and the matter came to be listed on 14.03.2018, on which date since the affidavit of witness on behalf of petitioner was not on record, the evidence was closed.

It is alleged that on 21.08.2018, though the affidavit of defence witness was prepared, but the learned Trial Court did not take it on

record. This fact is disputed by the learned counsel for the respondent/ plaintiff.

Since the petitioner is an insurance company and the dispute relates to the transactions for the year 1994-95 and since it was the first effective date when the petitioner neglected to produce its evidence, the impugned orders dated 14.03.2018 and 21.08.2018 are hereby set aside with a direction the affidavit of defendant witness(s) shall be filed by the petitioner within one week from today and the learned Trial Court shall accord one opportunity to the petitioner to get its witness(es) examined. Needless to state that learned Trial Court shall endeavour to conclude the evidence of petitioner at the earliest.

In above terms, the petition stands disposed of.

YOGESH KHANNA, J.

NOVEMBER 26, 2018

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