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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 588/2018 & CM.APPL.No.20676/18**

KRISHAN KUMAR BAJAJ Petitioner
Through: Mr. Tarun Sharma & Mr. Amit Goel,
Advocates.

versus

MIRZA RASHID BEG & ANR Respondents
Through: Mr. Rajeev Saxena & Mr. Manish
Khurana, Advocates.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **26.02.2019**

Submissions have been made on behalf of either side.

Vide the present petition, the petitioner assails the impugned order dated 18.04.2018 of the Court of the learned ADJ-13 (Central), THC, Delhi in CS No.16344/16, vide which an application under Order XVIII Rule 17 of the CPC r/w Section 151 & 114 of the CPC filed by the defendant i.e. the present petitioner, was declined observing *inter alia* to the effect that there was no infirmity in the order dated 03.02.2018 of the learned Trial Court vide which the right of the defendant to cross examine the plaintiff's witness i.e. PW-1 & PW-2 was closed, inasmuch as vide order dated 23.11.2017, one opportunity had been granted to the defendant of the said suit i.e. the petitioner herein to conduct the cross-examination of the plaintiff's witness.

It was also observed vide the said order dated 03.02.2018, that the counsel for the defendant i.e. the counsel for the petitioner herein had not appeared since the morning and repeatedly a pass over was being sought and that it was already 1.29 PM and thus, the defendant's right to cross examine PW-1 & PW-2 was closed, whereafter at 1.30 PM, the counsel for the defendant i.e. the counsel for the petitioner herein is indicated to have put in appearance before the learned Trial Court and had submitted that on account of VIP movement enroute from Rohini Court to Tis Hazari Courts, there was heavy traffic jam with it having been observed by the learned Trial Court to the effect that:-

“Be that as it may. Order has already been passed.

Put up for remaining PE on 28.02.2018.”

Taking into account the factum that the counsel for the petitioner did put in appearance at 1.30 PM and made a submission to the effect that he could not reach the court in view of heavy traffic jam due to VIP movement on the route from Rohini Court to Tis Hazari Court, in the interest of justice, it is considered appropriate to grant one single opportunity to the petitioner to conduct the cross-examination of PW-1 & PW-2 in CS No.16344/16 pending before the learned Trial Court on the date to be fixed by the learned Trial court.

The petition is disposed of accordingly.

ANU MALHOTRA, J

FEBRUARY 26, 2019/NC