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

+ **CM(M) 282/2020 & CM APPLs. 8360/2020, 8361/2020**

+ **CM(M) 283/2020 & CM APPLs. 8368/2020, 8369/2020**

M/S S N ELECTRICALS

..... Petitioner

Through: Mr. Rishab Raj Jain & Mr. Sharique
Hussain, Advocates (M-9811079695)

versus

NBCC SERVICE LIMITED & ANR

..... Respondents

Through: Mr. Gudipati G. Kashyap & Mr. K.
Sharat Kumar, Advocates (M-
9958832068)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **03.03.2020**

The present petitions arise out of two suits for recovery. One has been filed by the Respondents/Plaintiffs - NBCC Service Limited and NBCC (India) Ltd. (*hereinafter*, "*Plaintiffs*") against the Petitioner/Defendant - M/s S.N. Electricals (*hereinafter*, "*Defendant*") for a sum of Rs.28,86,734/- and a counter-suit has been filed by the Petitioner against the Respondents for a sum of Rs.50,43,643/-. Both suits are pending before the Trial Court.

Vide order dated 2nd August, 2019, at joint request of the counsel, the two suits were consolidated for the purpose of recording evidence. The Plaintiffs filed the affidavit of their witness PW-1 i.e., Mr. Amarendra Das, on 11th March, 2019 and the same was tendered. The matter was adjourned to 2nd August, 2019 for cross-examination. On 2nd August, 2019, the matter was further adjourned to 20th December, 2019 for cross-examination of PW-

1.

On 20th December, 2019, as ld. counsel for the Defendant was held up in another court a pass-over was sought. The matter was passed over twice and was thereafter taken up at 11.50 a.m. Since the Defendant's counsel could not reach, the opportunity to cross-examine PW-1 was closed.

Ld. counsel for the Defendant submits that he was held up in the Tis Hazari Courts where arguments were being heard in another matter and accordingly, he could not reach the Saket Courts in time. It is submitted that there was no intention to delay the matter.

This Court has perused the court diary of the counsel as also the order passed in the other matter where the counsel was busy and arguments were being heard. This Court is convinced that there was no negligence on the part of the counsel. In any case, the litigant ought not to be allowed to suffer on account of its counsel being held up in another Court. Accordingly, an opportunity for cross-examination of PW-1 is granted, subject to terms.

The Defendant shall now cross-examine the Plaintiffs' witness on the next date fixed before the Trial Court, subject to lump sum costs of Rs.10,000/- being paid to the witness. The Defendant shall ensure that it does not seek any unnecessary adjournments before the Trial Court or delay the matter in any manner.

With these observations, both the petitions are disposed of. All pending applications are also disposed of.

Prathiba...
PRATHIBA M. SINGH, J

/ MARCH 03, 2020
Rahul/C