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

Date of decision: 13th March, 2020

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C.R.P. 48/2020

KUMAR TRADING CORPORATION

..... Petitioner

Through: Ms. Rachita Garg, Advocate.
(M:7838066417)

versus

HARISH BAJAJ

..... Respondent

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

CM APPL. 9615/2020 (exemption)

1. Allowed, subject to all just exceptions. Application is disposed of.

C.R.P. 48/2020 & CM APPL. 9614/2020 (stay)

2. Advance copy of the petition has been served upon the Respondent, however, none appears for the Respondent.

3. The present petition challenges the impugned order dated 3rd March, 2020, by which the right of the Petitioner herein/Tenant (*hereinafter* 'Tenant'), to cross-examine the Landlord's witness PW-1 has been closed. A perusal of the order sheet shows that the matter was initially taken up at 10:30 am and an application was directed to be moved for seeking a passover. Thereafter, at 11:15 am, the proxy counsel sought some accommodation as the main counsel was on his way. However, the Trial Court closed the right of the Tenant to cross-examine PW-1 at 11:15 am and then directed the Tenant to file the evidence by way of affidavit. It is

submitted that the main counsel reached the Court at 11:35 am, and moved an application for recalling the said order. From the order sheet it is clear that the said application was taken up at 11:45 am. The next date in the matter is fixed as 17th March, 2020 and the order has not been recalled. Hence, this petition.

4. Ld. counsel for the Tenant vehemently urges that the Trial Court insisted upon an application being filed even for seeking a passover. The main counsel was only 15 to 20 minutes late, and despite the same, the order was not recalled. She submits that enormous prejudice would be caused to the Tenant if cross-examination is not permitted.

5. A perusal of the record shows that on 3rd February, 2020, detailed cross-examination of PW-1 has been recorded. In fact, the witness had felt unwell and the cross-examination was deferred to the next date. On the next date, the main counsel was stated to be held up in a supplementary item before the High Court, because of which by the time he reached the Trial Court, it was 11.35 am. The main counsel had, in fact, reached the Court and the application was moved, however, no indulgence was shown by the Trial Court.

6. Considering the nature of the matter and the events which have transpired on 3rd March, 2020, this Court is inclined to grant one opportunity to the Tenant to cross-examine the Landlord's witness PW-1. While there is no doubt that old matters have to be taken up expeditiously and disposed of by the Court, the order sheet in this case does not reflect well. Firstly, the Trial Court insisted for an application to be filed even for a Passover. Secondly, when at 11:15 am, proxy counsel appeared and made a statement that the main counsel was scheduled to reach the Court shortly, the trial

court closed the right to cross-examine. Thirdly, an application was moved for recall which was taken up at 11:45 am and was rejected. The proceedings do not exhibit prudent judicial practice. The difficulties of counsels, if genuine, ought to be considered and such prejudice being caused to the parties even for accommodation of 10-15 minutes could result in substantial injustice and in fact delay adjudication of cases much more as this would result in filing of multiple applications, appeals etc.

7. Accordingly, subject to payment of Rs.10,000/- as costs, the Tenant is permitted to cross-examine PW-1 in one session on the next date. Immediately upon the cross-examination being concluded on the same date, the Tenant will serve the evidence by way of affidavit of its witnesses to the Landlord. Thereafter, the cross-examination shall be concluded with due diligence, and no adjournment shall be sought by either party. The costs shall be tendered to PW-1 by the Tenant on the next date before the Trial Court.

8. With these observations, the petition along with the pending application is disposed of. Copy of the order be given *dasti* under signature of the Court Master.

PRATHIBA M. SINGH
JUDGE

MARCH 13, 2020/dk/RG