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IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: 15th July, 2024*

+ CM(M) 2380/2024 & CM APPL. 23118/2024

RAJIV BANSALPetitioner

Through: Ms. Disha Sharma, Advocate.

versus

NATIONAL INSURANCE COMPANY LIMITEDRespondent

Through: Mr. Pankaj Seth, Advocate for R-1.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner herein is plaintiff before the learned Trial Court who has filed a suit for recovery.
2. The issue raised in the present petition is very simple and precise.
3. On 04.04.2024, the witness from the side of the defendant-Insurance Company appeared before the Court and when the matter was taken up by the learned Trial Court at 11:05 a.m, noticing that counsel for plaintiff had not appeared for cross-examination and that witness could not be detained any further, the witness was discharged and the right of the plaintiff to cross-examine the DW-1 was also closed.
4. Since, the defendant was not desirous of leading any further evidence, DE was also closed.
5. The matter is now fixed for final arguments before the learned Trial Court on 18.07.2024.



6. Though ideally, the petitioner ought to have moved an application seeking recall of the order, explaining the circumstances.
7. Fact remains that it is noticed from the impugned order that the right was closed at 11:05 a.m.
8. Learned Trial Court should have waited for the counsel for post-lunch or could have given adjournment subject to cost. However, closing the right to cross has potential to cause grave prejudice.
9. The present petition is allowed with the direction that the learned Trial Court would give one effective opportunity to the petitioner herein i.e. plaintiff before the learned Trial Court to cross-examine DW-1.
10. It is also made clear that it will be open to respondent-Insurance Company to make appropriate request before the learned Trial Court, in case, it wishes to examine any other witness. This is necessitated as the DE was closed since the evidence of DW-1 remained unrebutted.
11. The present petition stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 15, 2024/sw