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

% ***Date of decision: 31st July, 2024***

+ **CM(M) 3054/2024 & CM APPL. 42804-42806/2024**

SUDHIR KUMAR & ANR.

.....Petitioners

Through: Mr. Mudit Sharma with Ms. Nandini
Sharma, Mr. Pravez Alam Khan and
Mr. Abhishek Rathi, Advocates.

versus

M/S ESCORTS KUBOTA LTD.

.....Respondent

Through: Mr. Saif Khan and Mr. Shobhit
Agarwal, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Mr. Saif Khan and Mr. Shobhit Agarwal, learned counsel for respondent appear on advance notice.
2. I have seen the impugned order dated 29.05.2024.
3. Undoubtedly, the learned Trial Court was justified in declining the request made by the counsel for defendants for deferring the matter on the ground that the concerned counsel was busy in another Court and, therefore, was in no position to cross-examine the witness who was present that day.
4. It is noticed that the learned Trial Court also took note of the fact that the case in hand was one of the oldest 20 cases pending in said Court. To that extent, no fault can be found in the approach of the learned Trial Court.
5. Learned counsel for respondent (plaintiff before the learned Trial Court) who have appeared on advance notice, state that they do not want to linger on their matter and do not want to further defend the present petition and without prejudice to their rights and contentions, they would have no



objection if one last and final opportunity is granted to the petitioner to cross-examine PW-2 i.e. Mr. Mahender Singh, subject to imposition of reasonable cost.

6. It is stated that next date before the learned Trial Court is 01.08.2024 i.e. tomorrow.

7. Keeping in mind the overall facts and circumstances of the case and the concession given by the learned counsel for respondent, the present petition is disposed of with the direction that the learned Trial court would give one last but effective opportunity to defendants to cross-examine PW-2 i.e. Mr. Mahender Singh, subject to the cost of Rs.10,000/-.

8. Let the cost be cleared on the next date.

9. Both the sides would appear before the learned Trial Court on the date fixed and the learned Trial Court would, accordingly, fix up date for the purposes of the aforesaid cross-examination of PW-2 i.e. Mr. Mahender Singh.

10. The petition stands disposed of in aforesaid terms.

11. Order *dasti* under the signatures of Court Master.

(MANOJ JAIN)
JUDGE

JULY 31, 2024/sw