



\$~96

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

% *Date of decision: 19th September, 2024*

+ CM(M) 3363/2024, CM APPL. 52485/2024 & CM APPL.
52486/2024

JASPAL SINGH

.....Petitioner

Through: Mr. Rohit Singh with Mr. Neeraj
Kumar Shah, Mr. Sujit Kumar,
Mr. Mohit Saini, Mr. Naveen Kumar
and Ms. Kanika Saini, Advocates.

versus

RAJENDER PAUL VERMANI

.....Respondent

Through: Mr. Aakash Sethi with Mr. Ami
Sisodia, Mr. Prakhar Sharma and
Mr. Rohit Arora, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is defendant before the learned Trial Court.
2. He was granted opportunity to cross-examine the witness of the plaintiff, subject to the imposition of cost.
3. However, such cost was not cleared. The defendant rather sought adjournment on the ground that he was unable to engage a new counsel. Keeping in mind the fact that the cost was unpaid, the learned Trial Court closed the right of the defendant to cross-examine the plaintiff and the case was fixed for final arguments as the right to lead any defendant's evidence was also held as not surviving anymore, in view of Section 35B CPC.



4. Pursuant to the issuance of notice, respondent Sh. Rajender Paul Vermani is also present in person and his counsel Sh. Aakash Sethi has also, in addition, joined the proceedings through video conferencing.

5. During course of the arguments, Sh. Sethi, learned counsel for the respondent has stated that there is no merit or substance in the present petition and though the petitioner does not deserve any further opportunity but in order to avoid any possible complication in future, he would have no objection if one last and final opportunity is granted to the petitioner to cross-examine PW-1 Sh. Rajender Paul Vermani, subject to imposition of further cost. He also submits that the petitioner may also be directed to examine himself or any of his witness in a time-bound manner.

6. The previous unpaid cost is stated to be of Rs.20,000/-.

7. Learned counsel for the petitioner submits that though his intention was never *malafide*, he is even ready to bear any further cost.

8. When asked, the defendant claimed that he would be entering into witness box in his defence and would also be examining one Sh. D.K. Malhotra. He also states that he would not take any unnecessary adjournment and would be present whenever the Court fixes the date for his evidence.

9. Keeping in mind the overall facts and circumstances of the case



and the gracious concession given by Sh. Sethi, learned counsel for the respondent, the present petition is disposed of with the following directions:-

- (i) The petitioner i.e. the defendant Jaspal Singh is granted one last and final opportunity to further cross-examine PW-1 Sh. Rajender Paul Vermani.
- (ii) The next date before the learned Trial Court is stated to be 25th instant and the learned Trial Court would permit the defendant/learned counsel for the defendant to cross-examine the plaintiff. It is assured by learned counsel for the petitioner that the cross-examination would be concluded same day.
- (iii) Petitioner would ensure that he makes himself available for DE (examination/cross-examination) and also brings his said witness before the learned Trial Court. He would abide by the directions and the dates in this regard to be given by the learned Trial Court.
- (iv) The previous unpaid cost of Rs.20,000/- be cleared on 25.09.2024 and for causing further delay in the matter, petitioner i.e. the defendant Jaspal Singh is also burdened with additional cost of Rs.30,000/- which be also cleared on the next date of hearing i.e. 25.09.2024 along with the previous unpaid cost.
- (v) Keeping in mind the age of the plaintiff Sh. Rajender Paul



2024:DHC:7265



Vermani, the entire such cost of Rs.50,000/- would go to the plaintiff Sh. Rajender Paul Vermani only.

10. The petition stands disposed of with the aforesaid directions.

(MANOJ JAIN)
JUDGE

SEPTEMBER 19, 2024
st