



\$~75

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

+ **CM(M) 4082/2024**

A AND A EARTH MOVERS PVT. LTD.Petitioner

Through: **Mr. Shashank Aggarwal, Adv.**

versus

MATERIAL HANDLING SYSTEMSRespondent

Through: **Mr. Manish Gupta, Adv.**

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

13.12.2024

**%
CM APPL. 73138/2024 (Exemption)**

Allowed, subject to all just exceptions.

Application stands disposed of.

CM(M) 4082/2024 & CM APPL. 73137/2024 (stay)

1. The respondent filed a Civil Suit i.e. CS (COMM) No. 519/2022 against the petitioner seeking recovery of Rs 3,15,798/- alongwith interest.
2. The petitioner has challenged the orders dated 15.10.2024, 28.10.2024, 14.11.2024 and 22.11.2024 passed by the learned District Judge (Commercial-01), South District, Saket Court, Delhi in the present petition.
3. After part submissions, learned counsel restricts his challenge to the orders dated 14.11.2024 & 22.11.2024. Vide order dated 14.11.2024, PW-1 Sh Mahesh Gupta was examined, but his cross examination was deferred at the request of petitioner to the next date. One more witness namely PW-2 Sh. Naseeb, Inspector of CGST, Delhi was examined and discharged.



Despite the request of the petitioner, cross examination of PW2 was not deferred by the learned Trial Court.

4. On the next date i.e. 22.11.2024, the petitioner did not cross examine PW1 and therefore, his right of cross examination was closed and the witness was discharged. The order dated 22.11.2024 reveals that two more witnesses i.e. PW-3 Shahadat Hussain and PW-4 Sh Santosh were also examined and discharged.

5. Learned counsel for the petitioner prays that at least one more opportunity be granted to the petitioner for cross examination of PW1 to PW4, otherwise his defence would be prejudice.

6. Learned counsel for the respondent states that he has no objection in case the petitioner be allowed to cross examine the aforesaid witnesses.

7. It is informed that the matter is now listed before the learned Trial Court on 20.12.2024 for remaining evidence of the respondent.

8. In view of the concession granted by the respondent and keeping in view the interest of justice, the petitioner is granted one more opportunity to cross examine all the four witnesses on the date already fixed before the learned Trial Court.

9. The respondent is directed to take necessary steps for summoning of all the four witnesses for the date fixed before the learned Trial Court.

10. This order is further subject to the condition that the petitioner shall not seek any further adjournment to cross examine the aforesaid witnesses on account of any reason whatsoever.

11. The petition is accordingly disposed of in terms of above order.

RAVINDER DUDEJA, J

DECEMBER 13, 2024/sk