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

+ **CM(M) 4092/2024**

AMIT KUMAR

.....Petitioner

Through: **Mr. Raj Kumar, Advocate**

versus

T.R. SAWHNEY PVT. LTD. & ANR.

.....Respondents

Through: **Mr. Sharique Hussain, Advocate for
R-2**

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

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16.12.2024

CM APPL. 73678/2024 (Exemption)

Allowed, subject to all just exceptions.

Application accordingly stands disposed of.

CM(M) 4092/2024 & CM APPL. 73679/2024 (Stay)

1. Petitioner impugns the order dated 06.12.2024 and 25.11.2024, passed by the court of learned Civil Judge, Shahdara District, Karkardooma in Suit No. 1378/2019 tilted "Amit Kumar Vs. T.R. Sawhney Pvt. Ltd. & Others."
2. A perusal of the order dated 25.11.2024 reveals that DW-1 was examined on behalf of defendant No. 2, but nobody appeared for the petitioner, and therefore, right of cross examination of petitioner was closed and the matter was listed for arguments for 06.12.2024.
3. On 06.12.2024, petitioner filed an application for recall of order dated 25.11.2024, but the same was also dismissed.



4. Learned counsel for the petitioner submits that petitioner had noted down the wrong date i.e. 26.11.2024 instead of 25.11.2024, which was the reason for non-appearance of the petitioner on the date fixed. It is submitted that the absence of the petitioner/Advocate was bona fide and not deliberate.

5. Petitioner has also enclosed a copy of counsel's diary, which shows that the matter was previously listed on 12.11.2024 and the next date noted down is 26.11.2024.

6. It is clearly evident that the absence of the counsel on date fixed i.e. 25.11.2024 was neither deliberate nor intentional but was on account of wrong noting of the date.

7. Keeping in view the aforesaid facts and circumstances, petition is allowed and orders dated 06.12.2024 and 25.11.2024 are set aside with direction to the trial court to grant an opportunity to the petitioner to cross examine DW-1 on the next date fixed before the trial court. This order is further subject to the condition that petitioner shall get only one opportunity to cross examine DW-1 and shall not seek any adjournment for cross examination on any ground whatsoever. Respondent is directed to ensure the presence of the witness on the date fixed.

RAVINDER DUDEJA, J.

DECEMBER 16, 2024

RM