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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 03.03.2025

+ CM(M) 419/2025

M/S ATHLESIS EOK & ANR.

.....Petitioners

Through: Mr. Rahul Kumar and Ms.
Shivangi Sharma, Advs.

versus

MANU SAWHNEY & ORS.

.....Respondents

Through: Mr. Arjun Dewan and Mr.
Shahryar Khan, Advs. for R-1
& R-2.**CORAM:-****HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT (ORAL)****RAVINDER DUDEJA, J.****CM APPL. 12586/2025 (exemption)**

Allowed, subject to all just exceptions.

The application stands disposed of.

CM(M) 419/2025 & CM APPL. 12585/2025 STAY

1. The petition under Article 227 of the Constitution of India impugns the order dated 22.02.2025, passed by the court of learned District Judge (Commercial) (Digital-07), South-East, Saket Court, New Delhi in case titled "*Manu Sawhney & Anr. Vs. Athlesis Eok & Ors.*" Bearing CS (Comm.) No. 417/2022.
2. Respondents No. 1 & 2 filed a suit for recovery allegedly due



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towards use and occupation charges, recovery of outstanding payment of water, electricity charges along with interest in relation to a property situated in Kalkaji.

3. Upon completion of pleadings, while the case was at the stage of evidence (PE), an oral request was made by the learned counsel for the respondents seeking permission to present the witness, PW-1 (Mr. Manu Sawhney), who resides in Dubai through Video Conferencing [“VC”]. The learned District Judge granted this oral request, allowing the examination of PW-1 via VC as per Video Conferencing Rules, 2021 and instructed the parties to appoint a “Court Person” and a “Support Person” to manage the digital process.

4. Petitioners raised concern arguing that terms “Court Person” and “Support Person” are not defined under the VC Rules, 2021, and the correct procedure for examining the overseas witnesses was not followed. It is submitted that an application requesting adherence to the proper procedure outlined in the VC Rules, 2021, which mandates the appointment of a Coordinator from an Indian Consulate or Embassy for the witnesses residing abroad. This application was dismissed by the learned District Judge vide impugned order dated 22.02.2025, which led the petitioners to challenge the decision in this Court.

5. By the impugned order, the learned District Judge declined to apply the provisions of VC Rules, 2021, concerning the appointment of a Coordinator from Indian Consulate for overseas witnesses stating that these provisions apply only to criminal cases. The relevant



paragraphs of the impugned order reads thus:-

“Though Ld. Counsel has asked the Court to pass orders in terms of Rules 5.3, 5.6, 8.11, 13.2 and 8.9 of the Video Conferencing Rules, apparently, the provision under Rule 5.1 has skipped the attention of the parties. For the reference, the aforementioned rule is noted as below:

5. Preparatory Arrangements

5.1 There shall be a Coordinator both at the Court Point and at the Remote Point from which any Required Person is to be examined or heard. **However, Coordinator may be required at the Remote Point only when a witness or a person accused of an offence is to be examined.”**

In view of the aforementioned Rule, there is seemingly no requisite for directions under Rules 5.3, 5.6 and 8.11. As regards the directions in terms of Rules 8.9 and 13.2, the expectations from the side parties are not detailed. While moving the present application, ‘defendants’ and while stating no objection in allowing the present application the ‘plaintiff’, has not forwarded any of the requisite details pertaining to furnishing the email ID address of the witness at the requisite destination where PW-1 is to be examined, nor has set out the details of the person at ‘Court Point’ for marking exhibits of the documents.

The identity of a witness could be established by sending ID proof attested by any Gazetted Officer as per Rule 3(VII), which may be scanned and forward prior to setting the date for V.C. The parties may share the burden of expense, if any, as the present are the proceedings arising out of a civil case, in which circumstance burdening of State machinery without any expense set-out may also be expected as a constraint.”

6. The subsequent order passed by the learned trial court dated 24.02.2025 is also of relevance and the same is extracted below:

“It is informed that order is yet not uploaded, wherein, both the parties have been apprised of there being no requisite for roping in the assistance of consulate as the present matter does not pertain to criminal jurisdiction. Parties to come forward and inform about the requisite persons who would be assisting at the ‘Court Point’. The identity of witness shall be sufficiently ascertained on his



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forwarding the attested identity proof issued by Government of India which can be scanned and forwarded through email prior to evidence began. He may in addition be also identified by the Ld. Counsel. The requisite expectations towards the burden of expense may be shared equally by both sides.”

7. In order to consolidate, unify and streamline the procedure relating to the use of video conferencing for courts, in the exercise of powers under Section 7 of the Delhi High Court Act, 1966 and Article 227 of the Constitution of India, the High Court notified the Video Conferencing Rules by Notification No. 348/Rules/DHC dated 26.10.2021.

8. Rule 5 of the Video Conferencing Rules, 2021 deals with the preparatory arrangements for examination through video conferencing. It provides as under:-

“5. Preparatory Arrangements

5.1 There shall be a Coordinator both at the Court Point and at the Remote Point from which any Required Person is to be examined or heard. However, Coordinator may be required at the Remote Point only when a witness or a person accused of an offence is to be examined.

5.2 In the civil and criminal Courts falling within the purview of the district judiciary, persons nominated by the High Court or the concerned District Judge, shall perform the functions of Coordinators at the Court Point as well as the Remote Point as provided in Rule 5.3.”

9. Rule 5.3.1 provides that where the required person to be examined is stationed overseas, an official of Indian Consulate/the relevant Indian Embassy/the relevant High Commission of India shall be the Coordinator.

10. A perusal of the aforesaid Rules sufficiently makes it clear that the rules are applicable to both Civil as well as Criminal Courts. The



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learned District Judge has erred in interpreting the above stated rules since a literal interpretation of the rules clearly explain that the appointment of a Coordinator is required at remote point in two situations, either when a witness is being examined or when a person accused of an offence is being examined. On a bare reading of Rule 5.1, it is apparent that appointment of Coordinator at remote point is not limited to criminal cases, and therefore, that being so, the finding of the learned District Judge that there is no requisite for roping in the assistance of Consulate as the present matter does not pertain to criminal jurisdiction, is completely erroneous in nature and contrary to the High Court of Delhi Rules for Video Conferencing for Courts, 2021, stipulating the procedure for examination of witnesses in both civil as well as criminal proceedings.

11. The Court also takes note that learned District Judge by order dated 24.02.2025 directed that the burden of expenses of recording the witness through video conferencing be shared equally by both sides. In passing such directions, learned District Judge has completely overlooked Rule 13.2 of the Video Conferencing Rules, which states as under:-

“13.2 In civil cases, generally, the party requesting for recording evidence through video conferencing shall bear the expenses.

Given that such request for recording evidence through Video Conferencing has been made by the Respondents/Plaintiffs, the Petitioners cannot be made liable to bear the expenses for the same.”

12. In the present case, the request for recording evidence through video conferencing has been made by the respondents and therefore



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the petitioners cannot be burdened with the expenses for the said purpose.

13. On being asked, learned counsel for the respondents submits that respondents have no objection to bear the entire expenses of video conferencing.

14. In view of the above, I am of the view that the impugned order not being in conformity with the Video Conferencing Rules, 2021, cannot be sustained. The impugned order dated 22.02.2025 is therefore set aside with direction to the learned District Judge to pass a fresh order strictly in compliance with Rules 5, 5.1, 5.2, 5.3.1 and 13.2 of the Video Conferencing Rules, 2021.

15. Petition is disposed of in terms of the above order.

16. Copy of the order be given *dasti* under the signatures of Court Master.

RAVINDER DUDEJA, J.

MARCH 3, 2025

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