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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 468/2025**
MANSI FREIGHT SYSTEMSPetitioner

Through: Mr. Vivya Nagpal and Mr. Ekansh
Bansal, Advocates.

versus

CONSOLE SHIPPING SERVICES INDIA PVT. LTD.Respondent
Through:

CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

10.03.2025

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CM APPL. 14380/2025 (exemption)

Allowed, subject to all just exceptions.

This application stands disposed of.

CM(M) 468/2025 & CM APPL. 14381/2025 (stay)

1. This is a petition under Section 227 of the Constitution of India, impugning the order dated 13.02.2025, passed by the learned District Judge in CS (COMM) 291/2023.
2. Vide impugned order, the trial Court had allowed the application of respondent under Section 151 CPC to reopen the plaintiff's evidence to exhibit the certificate under Section 65B of Indian Evidence Act, 1872 [**'the Act'**].
3. Learned counsel submits that permitting the respondent to re-open plaintiff's evidence under Section 65B of the Act at the belated stage of



arguments would amount to filling the lacuna left by the respondent. Learned counsel strongly relies upon the judgment in the case of **M/S Bagai Construction vs. M/S Gupta Building Material Store** [(2013) 14 SCC 1].

4. Perusal of the record reveals that examination in chief of respondent was recorded as PW-1 on 26.09.2024. The certificate under 65B of the Act was not exhibited and the objection of the petitioner to that effect was recorded.

5. Undisputedly, the application under Section 151 CPC was filed by the respondent at the stage of final arguments seeking permission to exhibit the certificate under Section 65B of the Act.

6. The trial Court took note that certificate under Section 65B of the Act was already filed prior to the evidence, however, due to inadvertence of the counsel, it could not be exhibited during the evidence of PW-1. A litigant should not be allowed to suffer because of the mistake of the counsel. The case would have been different if the certificate under Section 65B of the Act was on record.

7. The trial Court rightly noted that non-exhibition of certificate was curable defect and, therefore, respondent can be permitted to reopen the evidence to exhibit the certificate. The case should not be allowed to fall only on the technical ground that certificate under Section 65B of the Act was not filed. The judgment relied upon by the petitioner is not applicable to the facts and circumstances of the case inasmuch as in the relied upon judgment, the documents were not on record whereas in the present case, the certificate under Section 65B of the Act was already on record.

8. I find no compelling circumstance to interfere in the impugned order passed by the learned trial Court. The petition along with pending application



is, therefore, dismissed.

RAVINDER DUDEJA, J

MARCH 10, 2025/vd