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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: 30th July, 2025***

+ CM(M) 1403/2025 & CM APPL. 46126-46127/2025

BRIGADIER BALWANT DAHIYA TRUSTPetitioner

Through: Mr. Manish Kaushik, Mr. Mishal
Johari, Mr. Vikas Ashwani and Ms.
Yashpriya Sahran, Advocates

versus

SHAKUNTALA DAHIYA AND ORSRespondent

Through: Mr. L.K. Singh, Advocate for R-1
Mr. Shivain Vaidialingam, Advocate
for R-2 & R-5
Ms. Sangeeta Bharti, Ms. Shefali
Sangwan and Mr. Ashish Kumar,
Advocates for R-3 & R-4

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is defendant no. 5 before the learned Trial Court.
2. On 07.05.2025, learned Trial Court permitted defendant no. 5 to issue summons to one witness of his.
3. Such witness is, reportedly, Lieutenant Colonel Uday Bhan Dahiya.
4. However, when the matter was taken up by the learned Trial Court on 25.07.2025, noticing that the witness was not residing at the given address and there was no service despite the fact that process was issued *dasti*, learned Trial Court has closed the opportunity of defendant to lead further evidence.
5. Such order is under challenge.
6. Learned counsel for petitioner submits that he is seeking one last and final opportunity to produce the aforesaid witness within ten days from today before the learned Trial Court. He submits that in case he is unable to



produce the aforesaid witness he would not seek any further indulgence in this regard. He also submits that in alternate, there is one Mr. Shamsher whom he wants to examine and he seeks opportunity to examine him in alternate.

7. However, no such request about said Mr. Shamsher has, however, been made in this regard and, therefore, it will not be appropriate for this Court to appreciate the relevancy of said witness. It is, however, always open to him to move appropriate application in this regard and as and when any such application is moved, it is entirely up to learned Trial Court to consider any such request and to dispose it of, in accordance with law.

8. However, at the same time, keeping in mind the overall facts and the submissions and assurance made by learned counsel for petitioner (defendant no. 5), the present petition is disposed of with the direction that defendant no. 5 would be permitted to produce said Lieutenant Colonel Uday Bhan Dahiya as witness on 08.08.2025. Needless to say, he would be entitled to only one effective opportunity in this regard.

9. As undertaken today, onus of producing the aforesaid witness would be on the petitioner herein and, therefore, there would not be requirement of issuing any formal summons *qua* the aforesaid witness.

10. Present petition stands disposed in aforesaid terms.

11. Pending applications also stand disposed in aforesaid terms.

12. A copy of this order be given *dasti* under the signatures of the Court Master.

(MANOJ JAIN)
JUDGE

JULY 30, 2025/dr/shs