



2025:DHC:6977



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 14th August, 2025*+ CM(M) 1529/2025 & CM APPL. 50192-50193/2025
M/S MERIT EXPORTS PVT LTD

.....Petitioner

Through: Mr. Jitendra Mishra, Advocate.

versus

MR RAJ KUMAR GULATI & ANR.

.....Respondent

Through: Ms. Meenal Duggal with Mr. Mithlesh
Kumar, Advocates.**CORAM:****HON'BLE MR. JUSTICE MANOJ JAIN****JUDGMENT (oral)**

1. The petitioner is defending a suit which is commercial in nature and its witness i.e. DW-1/Mr.Rakesh Bhatia had submitted his affidavit in *examination-in-chief* and was also partly cross-examined on 08.04.2025.
2. His further cross-examination was to take place on 15.04.2025.
3. However, on said date, the witness i.e. DW-/Mr.Rakesh Bhatia was not available, being indisposed and reportedly even sent advance intimation to the abovesaid effect on whatsapp group.
4. However, on the basis of the report submitted by the learned Local Commissioner, the learned Trial Court, *vide* order dated 17.04.2025 has closed opportunity of defendant to lead further evidence and consequently, the affidavit of DW-1/Mr.Rakesh Bhatia has also been directed to be taken off the record with the observation that it shall not be considered in evidence.
5. Such order is under challenge.
6. Learned counsel for respondent/plaintiff appears on advance notice and she, though, refutes the averments made in the present petition, after some



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arguments, without prejudice to her rights and contentions, submits that she would have no objection if one last and final opportunity is granted to DW-1/Mr. Rakesh Bhatia to enter into witness box and so that he is further cross-examined by her.

7. It is apprised that the next date before the learned Trial Court is 01.09.2025 for the purposes of hearing final argument.

8. Keeping in mind the overall facts of the case and the gracious concession given by learned counsel for respondent/plaintiff, the present petition is disposed of with direction that DW-1/Mr. Rakesh Bhatia would be entitled to one last and final opportunity to make himself available for further cross-examination by the plaintiff.

9. The parties would appear before the learned Trial Court on 01.09.2025 and his further cross-examination would take place, either before the learned Local Commissioner or before the Court, as per the direction in this regard to be given by learned Trial Court.

10. However, for causing delay in the matter, the defendant is burdened with cost of Rs.20,000/- to be paid to the plaintiff such cost be cleared on the next date of hearing before the learned Trial Court.

11. The present petition stand disposed of in aforesaid terms.

12. Pending applications also stand disposed of.

(MANOJ JAIN)
JUDGE

AUGUST 14, 2025/ss/shs