



2025:DHC:7245



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

% ***Date of Decision: 21st, August, 2025***

+ CM(M) 1572/2025 & CM APPL. 51699-51700/2025
BRIGADIER BALWANT DAHIYA TRUSTPetitioner

Through: Mr. Manish Kaushik with Mr. Mishal,
Advocates.

versus

SHAKUNTALA DAHIYA AND ORSRespondent

Through: Ms. Sangeeta Bharti with Mr. Ashish
Kumar, Advocates.
Mr. Shivain Vaidialingam, Advocate.
Mr. L K Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. This is second round of litigation.
2. Petitioner, who is defendant No.5 before the learned Trial Court, had earlier filed a petition before this Court seeking to examine Lt. Col. (Retd.) Uday Bhan Dahiya. It was claimed that the above would be the last and final opportunity to produce him and, in case, he was unable to produce said witness, he would not seek any further indulgence. It was also, however, supplemented that, in alternate, he would examine Mr. Shamsheer Singh Malik.
3. The earlier petition, which was registered as CM (M) No. 1403/2025, was disposed of by this Court while granting him the abovesaid opportunity to procure the attendance of Lt. Col. (Retd.) Uday Bhan Dahiya as his witness.



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4. While disposing of the petition, it was left open to petitioner to move appropriate application, in case, he wanted to examine Mr. Shamsher Singh Malik as his witness in alternate.
5. Since defendant No.5 could not secure the presence of Lt. Col. (Retd.) Uday Bhan Dahiya, he made request before the learned Trial Court to permit him to examine Mr. Shamsher Singh Malik.
6. The present petition has been filed as learned Trial Court has refused to call Mr. Shamsher Singh Malik, as an alternate witness of defendant No.5.
7. Learned counsel for respondent also appears on advance notice.
8. After careful perusal of the averments made in the petition and hearing learned counsel for the parties, this Court does not find any illegality or perversity in the impugned order dated 08.08.2025.
9. The supervisory powers can be invoked when there is a apparent illegality in the impugned order or when the order is totally erroneous and against the settled proposition of law.
10. Learned Trial Court, after careful consideration of the matter, has declined defendant No.5's request to examine Mr. Shamsher Singh Malik as his witness and the reasons appearing in the impugned order are neither perverse nor arbitrary.
11. By virtue of present petition, the endeavor of the defendant No.5 is for this Court to take over the trial and to decide those aspects which are obviously beyond the scope of Article 227 of Constitution of India.



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12. Viewed thus, present petition is dismissed.
13. Pending application also stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

AUGUST 21, 2025/sw/PB