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

\+ CM(M) 4029/2024

M/S RNT METALS PVT. LTD .....Petitioner

Through: Mr. Mayank Rustagi, Advocate.

versus

RAKA OVERSEAS THROUGH
ITS PROPRIETOR SURABH JAIN .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA

<u>O R D E R</u>

% **10.01.2025**

<u>CM APPLs. 72101-02/2024 (for exemptions)</u>

Allowed, subject to all just exceptions.

These applications stand disposed of.

<u>CM(M) 4029/2024 & CM APPL. 72103/2024 (stay)</u>

1. The present petition impugns the order dated 08.10.2024, whereby the respondent has been granted permission to summon the witness from the GST Department in CS (COMM) 142/2024, titled as, "Raka Overseas vs. RNT Metals Pvt. Ltd. & Ors.".

2. Petitioner is the defendant in the suit for recovery filed by the plaintiff.

3. Learned counsel submits that the Trial Court allowed the request of the respondent to summon the witness from GST Department for production of GST record pertaining to the petitioner without there being any list of

witnesses on record.

4. The perusal of the impugned order reveals that the case is still at the stage of evidence of respondent. Since the GST record was stated to be not in power, possession and control of the respondent, the Court allowed the respondent to summon the witness from GST Department, subject to cost of Rs. 3,000/-.

5. The onus to prove its case completely lies on the plaintiff. It is for the plaintiff to decide which witness is required to be summoned and with what record and in case the summoned record is found to be not relevant, obviously, the same would not be looked into, but at this stage, the plaintiff cannot be deprived of his right to summon the witness to prove its case, in its own way.

6. Court does not find any infirmity in the impugned order passed by the Trial Court. There is no merit in the petition. The same is accordingly dismissed.

RAVINDER DUDEJA, J

JANUARY 10, 2025/*vp*