



\$~51

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

+ C.R.P. 347/2025 & CM APPLs. 78858-59/2025

ANIL KUMAR AND ANRPetitioners

Through: Mr. Sarvesh Singh, Advocate.

versus

DEVENDER KUMAR GARG @

DAVINDER KUMARRespondent

Through: Mr. Ajay Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **15.12.2025**

1. The petitioners, who are the defendants in CS No. 92/2018 pending before the District Judge-01, North-East District, Karkardooma Courts, Delhi, have filed this revision petition against dismissal of their application under Order VII Rule 11 of the Code of Civil Procedure, 1908.

2. While dismissing the application, the Trial Court noted as follows:

“3. At the outset, it may be noted that today was the last opportunity for the defence to produce their witness Rajender. Neither the said witness has been produced nor any affidavit has been filed. The application moved today is nothing but a tactic to delay adjudication of the case.”

3. The application was thereafter considered on merits, and held to be misconceived.

4. Ultimately, the following directions were passed:

“9. As already noted, defendants have failed to produce their sole remaining witness Rajender. He is stated to be ill today. Similar plea was taken on the last date. Presuming that Rajender is ill today, this does not explain as to why his affidavit has not been filed in court



before today's hearing. On last date, it was stated at bar by the counsel for defendants that the said witness shall appear on his own. No document has been filed to prima facie support the fact that the said witness is ill. In my humble opinion, sufficient opportunities have been granted to the defendants to produce the said witness and conclude their evidence. Considering the same, right to examine Rajender as a defence witness is closed.

10. No other witness remains to be examined on behalf of defendants. Thus, DE is closed.

11. List for final arguments on 19.12.2025.”

5. Mr. Ajay Kumar, learned counsel for the respondent/plaintiff, is present on advance notice.

6. During the course of hearing, learned counsel for the parties agree that the revision petition may be disposed of by granting a last opportunity to the petitioners/defendants to produce their witness, on the next date of hearing.

7. With the consent of learned counsel for the parties, the impugned order is therefore modified to the extent that the affidavit of evidence of Rajender, the only remaining witness on behalf of defendants, be served on learned counsel for the respondent/plaintiff by 17.12.2025. The witness be produced before the Trial Court for cross-examination on the date fixed, i.e. 19.12.2025.

8. After the evidence of the defendant's remaining witness is concluded, the Trial Court may proceed to hear final arguments.

9. The revision petition, alongwith pending applications, is disposed of, in the aforesaid terms.

PRATEEK JALAN, J

DECEMBER 15, 2025

“Bhupi”/AD/