



2026:DHC:1385



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 17th February, 2026

+ CM(M) 378/2026

KUNAL STRUCTURE INDIA PVT LTD & ANR.Petitioners
Through: Mr. Yash Mishra, Mr. Satyadev
Prakash, Ms. Tanushree Karnawat,
Ms. Manshi Rajpal and Mr. Mukul
Kumar, Advocates.

versus

INSTAPOWER LTDRespondent
Through: Ms. Sonali Chopra, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER (Oral)

Rajneesh Kumar Gupta, J.

1. This hearing has been conducted through hybrid mode.

CM APPL. 10758/2026 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

CM(M) 378/2026 & CM APPL. 10757/2026 (for stay)

3. The present petition has been filed by the petitioner under Article 227 of the Constitution of India, 1950, assailing the order dated 28th November, 2025, passed by the learned Trial Court in CS(COMM) 163/2023, whereby the application preferred under Order XI Rule 1 of the Code of Civil Procedure, 1908, seeking discovery by way of interrogatory of documents in the possession of the plaintiff, has been dismissed.

4. Learned counsel for the respondent has appeared on advance notice and accepted notice.



5. The matter has been taken up for hearing today with consent of the learned Counsels.
6. Heard. Record perused.
7. Learned counsel for the petitioner has argued that the documents which are sought to be put to the respondent/plaintiff during cross-examination are relevant to the case and, in case this opportunity is not granted, the defence of the petitioner would be prejudiced. It is further submitted by the learned counsel for the petitioner that the trial Court has passed the impugned order on the basis of surmises and conjectures.
8. *Per contra*, learned counsel for the respondent has argued that the application has been filed only with a view to delay the trial. It is submitted that the application was rightly dismissed, as the defence of the defendant had already been struck off on 17th August, 2023.
9. The relevant portion of the impugned order reads as follows:

“The right to file the written statement is closed by this Court as well as Hon’ble High Court. Presently the case is at the stage of PE since 28.02.2024 and the defendant is delaying the same on one and other ground. The present application is filed for production of certain documents stated to be in possession of plaintiff however, no reasons are given. It is settled law that when the defence is struck off then the limited right of the defendant is to cross examine the plaintiff on the basis of the case set up by the plaintiff and not to put any defence. In view thereof the present application is devoid of any merit, hence dismissed. Application is disposed of accordingly.

Last and final opportunity is given to cross examine PW-1.”

10. The documents sought to be put to the respondent during cross-examination are detailed in paragraph No. 3 of the application.



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Documents at paragraphs 3(a), 3(b) and 3(c) are stated to be those allegedly sent by the petitioner to the respondent. Learned counsel for the respondent also submitted that document 3 (d) is already placed on record.

11. Keeping in view the facts and circumstances of the case, as the petitioner has failed to show any legal justification for moving the application, this Court does not find any infirmity in the impugned order which is a a reasoned order passed in accordance with law. Accordingly, the present petition is dismissed as being devoid of any merit. Pending application(s), if any, also stand disposed of.

RAJNEESH KUMAR GUPTA, J

FEBRUARY 17, 2026/v/isk