



2026:DHC:2480



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 24th March, 2026

+ CM(M) 611/2026, CM APPL. 18558/2026 & CM APPL. 18559/2026

M/S SHREE KAILASH PREM FURNITUREPetitioner

Through: Mr. Sazid S.R.Shah, Mr. Syed Bashar Afzal, Mr. Qadir Javed and Mr. Akash Saini, Advocates.

versus

SHAGUN FURNITURE

.....Respondent

Through: None.

CORAM:**HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA****ORDER (Oral)****Rajneesh Kumar Gupta, J.**

1. This hearing has been conducted through hybrid mode.
2. The present petition has been filed by the petitioner under Article 227 of the Constitution of India, 1950, assailing the order dated 12th February, 2026, passed by the learned Trial Court in CS SCJ 1278/2021, whereby the application filed by the petitioner/defendant under Section 151 of the Code of Civil Procedure, 1908, seeking recalling of order dated 21st January, 2025, has been dismissed.
3. *Vide* Order dated 21st January, 2025 the right of the petitioner/defendants to lead defence evidence has been closed.
4. Heard. Record perused.
5. Learned counsel for the petitioner has argued that the trial court has passed the impugned order on the basis of surmises and conjectures which is



against the facts on record. The evidence of the petitioner has been closed without giving sufficient opportunity to the petitioner to lead his evidence. It is further submitted by the learned counsel for the petitioner that, in absence of such an opportunity to lead evidence, grave prejudice would be caused to the case of the petitioner.

6. It is relevant to mention that the petitioner has not challenged the order dated 21st January, 2025 in this petition. The order dated 21st January, 2025 reads as follows:

“Matter is pending at the stage of DE for the last one year.

Neither of the defendants have led any evidence so far and even today an adjournment is sought.

Considering the conduct of the defendants, no leniency is warranted.

Accordingly, the right of the defendants to lead Defence Evidence stands closed.”

7. The relevant portion of the impugned order dated 12th February, 2026 is reproduced as follows:

“Vide this application, the defendant No.1 is seeking recalling of order dated 21.01.2025 passed by this court followed by liberty to lead defence evidence.

It is submitted by Ld. counsel for defendant No.1 that the defendant no. 1 had filed his evidence by way of affidavit on 03.07.2024 itself, however, the said fact was not recorded in the ordersheet and consequently on 21.01.2025, his opportunity to lead defence evidence was closed. It is further submitted by Ld. counsel for defendant that the order dated 21.01.2025 may be recalled and he may be granted an opportunity to lead DE.

Per-contra, it is submitted by Ld. counsel for plaintiff that the opportunity of the defendant to lead DE was closed after giving several opportunities, therefore, no further opportunity may be granted to the defendant to lead DE. It is further submitted by Ld. counsel for plaintiff that the present



application has also been filed by the defendant after the expiry of 07 months from the date of the order, therefore, it is filed only with the intent to delay the trial and is an abuse of the process of law.

Perusal of the record reveals that the matter was fixed for DE vide order dated 11.03.2024 and the defendant was directed to file the evidence by way of affidavit along with list of witnesses within 15 days. Thereafter, on 25.04.2024, the defendant No.1 sought time for complying with order dated 11.03.2024. Subsequently, on 09.05.2024, again adjournment was sought on behalf of defendant No.1 for leading DE and no evidence by way of affidavit was filed on behalf of defendant No.1. Thereafter, on 21.01.2025, yet again a request for adjournment was made on behalf of defendant No.1, however, considering the conduct of the defendant No.1, Ld. Predecessor of this court closed the opportunity to lead DE and matter was fixed for final arguments. On 17.07.2025, final arguments were heard by this court and matter was adjourned for clarifications/orders to 23.07.2025 however, on the said date at the request of defendants matter was again fixed for final arguments for 11.09.2025, on which date the present application came to be filed.

It is therefore, apparent from the aforesaid facts that the defendant has filed the instant application after expiry of more than seven months from the date on which his opportunity to lead DE was closed. In the present application, the defendant has only mentioned the fact of filing of evidence by way of affidavit online before this court on 03.07.2024, however, no explanation has been tendered for nonappearance of defendant No.1 for the purpose of leading DE between 03.07.2024 and 21.01.2025. Even if the submission of Ld. counsel for defendant No.1 regarding the filing of the affidavit on 03.07.2024 is taken on its face value, the blatant neglect in non-filing the physical copy of evidence by way of affidavit on record compounded by nonappearance of defendant for the purpose of leading DE between 03.07.2024 and 21.01.2025 is rather inexcusable, more so when final arguments have already been advanced by the parties. Moreover, no explanation has come forth regarding



the delay of seven months in filing of the instant application despite ample time being available with the defendant in as much as order sought to be recalled was passed on 21.01.2025 whereas the present application came to be filed as late as on 11.09.2025.

In view of the above facts and circumstances, this court is of the view that the instant application has been filed only with the intent of delaying the trial which is also corroborated by the previous conduct of the defendant No.1. This court is accordingly not inclined to grant any liberty to defendant No.1 for leading DE in the present case, especially in the light of the fact the matter has been at the stage of final arguments since more than a year and a half.

Accordingly, the application u/s 151 of CPC filed on behalf of the defendant No.1 is hereby ordered to be dismissed as being vexatious and frivolous, with cost of Rs. 2000/- to be paid to the plaintiff on the NDOH.

Application is accordingly disposed of.

Since, final arguments were not heard by the undersigned in the present case the same shall be heard afresh on the NDOH."

8. A perusal of the record shows that the trial court has given sufficient opportunities to the petitioner in order to lead his evidence. However, the petitioner without any sufficient reasons continued to seek adjournments which has resulted in the delay of the trial. The trial court has rightly closed the evidence of the petitioner after considering the conduct of the petitioner and after giving him sufficient opportunities. The trial court has passed a well-reasoned order in accordance with law. Accordingly, this court does not find any infirmity in the impugned order and the same is upheld. The petition is dismissed as being devoid of any merits. Pending application(s), if any, also stand disposed of.

RAJNEESH KUMAR GUPTA, J

MARCH 24, 2026/v/isk