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

\# **CNR No. DLHC010145162026**

\+ CM(M) 765/2026, CM APPL. 22963/2026 & CM APPL. 69178/2026

S.M ANIS .....Petitioner

Through: Mr. H.S. Phoolka, Sr. Adv. with Mr. Praveen Pandey, Mr. H.S. Sodhi, Ms. Surpreet Kaur and Mr. Kartik Goyal, Advs. along with petitioner in person.

versus

NAFEES AHMED KHAN & ANR. .....Respondents

Through: Mr. Arman Khan, Mr. Ananay Lamba and Ms. Ayushi Mittal, Advs.
Ms. Manini Brar MCD Panel Counsel along with Mr. O.P. Harsh Singh Munday and Mr. Siddhant Chhabra, Advs.

CORAM:
HON'BLE MR. JUSTICE AJAY DIGPAUL

O R D E R

% 09.10.2026

1. By way of the present petition, the petitioner assails the order dated 27.01.2026 passed by the learned Civil Judge-09, Central, Tiz Hazari Courts, Delhi in C.S. No. 96896/2016 titled *'S.M. Anis v. Nafees Ahmed Khan & Anr.'*, whereby the application filed on behalf of the petitioner/plaintiff under Section 151 of the Code of Civil Procedure, 1908 *("CPC")*, was dismissed. By the said impugned order, the petitioner sought summoning of the record of BSES Yamuna Power Limited, pertaining to the

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electricity connection sought by respondent no. 1/defendant no. 1, and for examination of witnesses from the said department for the purpose of confronting the respondent with the same during cross-examination.

2. Briefly stated, the underlying suit for permanent and mandatory injunction was instituted by the petitioner against the respondents, seeking to, *inter alia*, restrain respondent no. 1, who is supposedly his tenant, from raising illegal and unauthorized construction over the ground floor of the property, bearing No. 33 in 4513, Katra Abdul Razakk, Lambi Gali, Shahtara Gali, Ajmeri Gate, Delhi-06 *("subject premises")*.

3. During the pendency of the suit, petitioner moved the aforesaid application under Section 151 CPC, seeking a direction of the learned Trial Court to summon the witness of BSES Yamuna Power Ltd., Chandni Chowk, along with the record of the electricity connection in the subject premises in relation to the respondent no. 1's application dated 13.07.2007, to confront respondent no. 1 at the stage of cross-examination.

4. The learned Trial Court *vide* impugned order dated 27.01.2026, recorded the submissions of the parties, and dismissed the said application. It was held that the petitioner had moved the said application at a belated stage, during the course of defense evidence. It was further recorded that the petitioner failed to demonstrate a compelling circumstance warranting the summoning of the said record and witnesses.

5. It is the case of the petitioner that the said application was moved at the appropriate stage, namely during cross-examination of the respondent no. 1. The purpose of the said application was to confront respondent no. 1 with his signature on the rent receipts placed on record by the petitioner to establish his status as a tenant, and to thereafter, compare the same with his

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signatures on the electricity connection application, which he had admittedly submitted.

6. At this stage, the parties are *ad idem* that the petitioner may be granted one final opportunity to summon the record of BSES Yamuna Power Limited pertaining to the electricity connection sought by respondent no. 1 in the subject premises, and the requisite witness(s), for the purpose of confronting respondent no. 1 during cross-examination.

7. In view of the aforesaid, and in the interest of justice, this Court deems it appropriate to allow the present petition to the extent that the application moved by the petitioner under Section 151 CPC for summoning the record of BSES Yamuna Power Limited, Chandni Chowk and summoning the requisite witnesses for cross examination of respondent no. 1 stands allowed, subject to the cost of Rs. 25,000/- to be directly paid to the respondent no. 1 before the next date of hearing fixed by the learned Trial Court.

8. In the event the petitioner defaults in payment of the said costs within the stipulated period, the indulgence granted herein will stand vacated, without liberty to approach this Court seeking similar relief thereafter.

9. Accordingly, the learned Trial Court is directed to fix a date for summoning the relevant record of BSES, the requisite witnesses from the department, and for the cross-examination of respondent no. 1, subject to the exigencies of its board. Thereafter, the underlying suit shall proceed in accordance with law.

10. With the consent of the parties, the present petition stands allowed.

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11. The present petition, along with pending applications, if any, stands disposed of in the aforesaid terms.

AJAY DIGPAUL, J

OCTOBER 9, 2026/*AS/os*

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