



2026:DHC:4285



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision: 14th May, 2026***+ CM(M) 1074/2025, CM APPL. 36201/2025 & CM APPL. 36202/2025
KALPATARU PROJECTS INTERNATIONAL LTD.....PetitionerThrough: Dr. Shivam Bajaj, Dr. Akash Tandon,
Mr. Amit Sagar and Mr. Sudhir
Kumar, Advocates.

versus

MS SUNITA ENTERPRISES

.....Respondent

Through: Mr. Bijay Kumar and Mr. Ashok
Nigam, Advocates.**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, assailing the orders dated 01st October, 2024 and 25th March, 2025, passed by the learned Trial Court in *CS No. 896/2017* and *CS No. 223/2018*, whereby an opportunity of the petitioner/defendant to cross-examine PW-1 and PW-2 was closed and the application filed by the petitioner seeking recall of the said order was dismissed respectively.
3. Heard. Record perused.
4. Learned counsel for the petitioner has argued that the learned Trial Court has passed the impugned orders on surmises and conjectures, contrary to the facts and law. PW-1 and PW-2 are material witnesses and they could not be cross-examined on behalf of the petitioner owing to the amalgamation of the petitioner company pursuant to the order passed by the NCLT, as well as on account of the illness of the learned counsel for the petitioner/defendant.

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CHAUHAN
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It is further argued that, in case the petitioner was not granted the opportunity to cross-examine PW-1 and PW-2, grave prejudice would be caused to the case of the petitioner, who has also filed a counter-claim against the respondent and both the matters are tried together.

5. *Per contra*, learned counsel for the respondent has argued that the learned Trial Court has passed the impugned orders after granting sufficient opportunities to the petitioner to cross-examine PW-1 and PW-2. It was further submitted that the present petition has been filed only with a view to delay the proceedings and that the impugned orders do not suffer from any illegality or infirmity.

6. Perusal of the record shows that PW-1 and PW-2 are the material witnesses and several opportunities had been granted to the petitioner to cross-examine them. However, keeping in view the facts and circumstances of the case, this Court is of the opinion that it would be in the interest of justice if one more opportunity is granted to the petitioner to cross-examine PW-1 and PW-2, as the respondent can be compensated with costs. Accordingly, one more opportunity is granted to the petitioner to cross-examine PW-1 and PW-2 subject to payment of costs of Rs. 15,000/- (Rupees Fifteen Thousand Only) to the respondent.

7. It shall be open to the learned Trial Court to allow cross-examination of PW-1 and PW-2 on the date already fixed or on any other date as may be convenient to the learned Trial Court.

8. The present petition is disposed of in the above terms. Pending application(s), if any, also stand disposed of.

RAJNEESH KUMAR GUPTA, J

MAY 14, 2026/nd/abk