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

+ **CM(M)-IPD 53/2025 & CM 296/2025**

RAJESH SULTANIA & ANR.Petitioners

Through: Mr. Dikshant Khanna, Advocate.

Versus

ARUN KUMAR MURARKARespondent

Through: Mr. Ajay Amitabh Suman, Mr. Rishi Bansal and Ms. Shruti Manchanda, Advocates.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER
06.01.2026

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1. This is a petition under Article 227 of the Constitution of India, 1950 seeking setting aside of the impugned order dated 01.12.2025 passed by the learned DJ, Commercial Court-05, District Central, Tis Hazari Courts, Delhi in CS (COMM) No. 3017/2021 and further seeking directions to take on record the petitioner's list of witnesses.

2. Learned counsel appearing for the petitioner draws attention of this Court to the impugned order dated 01.12.2025 to submit that the impugned order proceeds on the basis that since the list of witnesses was not filed within 15 days of framing of issues and that no sufficient cause has been shown, consequently the list of witnesses filed by the petitioner/defendant was not taken on record.

3. He also submits that on the same date i.e. 01.12.2025, the examination-in-chief of the petitioner/defendant i.e. Mr. Rajesh Kumar Sultania was filed and taken on record. In fact, he submits that it is also noted that the affidavit



of the said witness was tendered in examination-in-chief and who was partly cross-examined. He submits that the cross-examination is still continuing before the learned Trial Court

4. The other issue which is agitated by learned counsel for the petitioner is in respect of the examination conducted on 01.12.2025 of the said witness DW-1 Mr. Rajesh Kumar Sultania. He submits that while the documents were being tendered, though the objection in respect of the documents tendered which were all photocopies was taken by learned counsel for the respondent/plaintiff and was noted in the order, the originals which were brought along by the witness were not noted. His grievance is that in case such noting or observation is not entered by the learned Trial Court, it would seriously prejudice his case on merits so far as evidentiary value of the documents is concerned.

5. On the other hand, learned counsel appearing for the respondent/plaintiff vehemently opposes the present petition.

6. He invites attention to the impugned order, particularly to second paragraph on Page 37 to submit that the manner in which the witness had produced his evidence which was, though attested by the Oath Commissioner, did not contain the signatures of the deponent at all. He submits that though a fresh affidavit was indeed filed, yet the conduct of the petitioner ought to be taken note of by this Court.

7. That apart, he also invites attention of this Court to the order dated 24.04.2023 wherein issues were framed by the Court, coupled with the direction that list of witnesses by the parties ought to be filed within 15 days of such framing of issues. He submits that despite such specific direction, the petitioner has filed the list of witnesses after a delay of 2½ years. He also further submits that the petitioner did not even take the precaution to file the application seeking condonation of delay in filing such list of witnesses and



hence the impugned order cannot be interfered with by this Court.

8. He also invites attention to ground ‘A’ of the petition, whereby the petitioner has not even given the details of the delay which may have occurred in filing the list of witnesses before the learned Trial Court. That apart, he has taken serious exception to the contents of ground ‘G’ mentioned in the petition, which is as under:-

“G. BECAUSE during the examination-in-chief of DW-1, the Ld. Trial Court made unwarranted remarks such as “I am not your steno” towards the Petitioners’ counsel and reprimanded him instead of allowing him to raise legitimate objections regarding the non-recording of chief examination and the exhibiting of documents. When the Petitioners’ counsel submitted that he would be left with no option but to approach the Hon’ble High Court, the Ld. Trial Court further stated, “High Court ki dhamki mujhe mat dena”. Such remarks and conduct undermined the decorum of judicial proceedings, created an atmosphere of prejudice, and prevented the Petitioners from effectively presenting their case, demonstrating a failure to maintain judicial composure, neutrality, and fairness.”

He submits that in such circumstances, not only is the ground contumacious but this Court ought to take *suo motu* contempt notice against the petitioner’s conduct.

9. This Court has heard the learned counsel for the parties.

10. So far as the issue of list of witnesses is concerned, after having perused the record, this Court finds that apart from the sole witness i.e. Mr. Rajesh Kumar Sultani, who has been examined and cross-examined as DW-1, the only other witness on the list of witnesses is the official witness i.e. the Registrar of Copyrights, from whom the official records i.e. the Register of Copyrights is sought to be summoned.

11. In such circumstances, when the only named witness who is to be examined on merits and the facts of the case is a party to the suit and is already being examined and the other witness being the official witness, the objection to filing the list of witnesses is not sustainable. A summoned



witness to the extent of bringing official records, can be called for placing the document on record without calling for an affidavit. Moreover, as per the facts, the petitioner only seeks to place on record the Register of Copyrights to prove its registration, which in any case is document to be a *prima facie* evidence of the particulars entered therein as per Section 48 of the Copyright Act, 1957. Though it is correct that there is no reason or ground given explaining the delay of 2½ years in filing the list of witnesses. However, in the given circumstances, delay can be condoned by compensating the respondent.

12. However, keeping in regard the fact that the suit and matters ancillary thereto ought to be decided on merits and not on technicalities, this Court permits the taking on record of the list of witnesses, subject to imposition of costs of Rs.50,000/- to be paid to the respondent/plaintiff within four weeks from date.

13. So far as the second issue concerning the non-observation of the original records claimed to have been brought to the Court by DW-1 on 01.12.2025 is concerned, the petitioner is granted liberty to file an appropriate application seeking leave of the Court to either place on record the original document or any other appropriate application in that regard. The same be filed within two weeks from date. The said application shall be decided by learned Trial Court on its own merits.

14. So far as the aspect of contents of ground 'G' is concerned, learned counsel for the petitioner withdraws the same and therefore, no directions are warranted.

15. Learned counsel appearing for the respondent requests that the time in respect of the cross-examination to be conducted of DW-1 may be fixed so as to expedite the hearing of the suit/plaint.

16. It has been informed that the suit is listed tomorrow i.e. on 07.01.2026



for continuation of cross-examination of DW-1. The learned Trial Court is requested to ensure that there is no delay in further conduct of cross-examination of DW-1 tomorrow and also may consider fixing the next date of hearing in case any such further cross-examination is required within 30 days from date.

17. The petition alongwith pending application stands disposed of in above terms.

TUSHAR RAO GEDELA, J

JANUARY 6, 2026

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