



2025:DHC:11089



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

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Date of Decision: 09.12.2025

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CM(M) 1050/2025 & CM APPL. 34705/2025

SH. DAVESH SINGH

.....Petitioner

Through: Mr. Swastik Singh (*through videoconferencing*) and Mr. Shreshtah Raj Shrivastava, Advocates.

versus

SH. HAWALDAR SINGH AND ORS

.....Respondents

Through: Mr. Muddassir Daiyyan, Advocate for R-1.
Mr. Varun Gupta, Advocate for R-3 (*through videoconferencing*).

CORAM: JUSTICE GIRISH KATHPALIA**ORDER (ORAL)**

1. Petitioner/defendant no.2 has assailed order dated 15.04.2025 of the learned trial court, whereby his application for review of order dated 22.07.2024 and recall of PW1 for cross-examination was dismissed.

2. It appears that earlier, the suit was pending for cross-examination of PW1 by counsel for defendant no.3. The present petitioner (*defendant no.2*) had filed an application to summon official records with which PW1 had to be confronted. On 22.07.2024, when the trial was listed, cross-examination of PW1 on behalf of defendant no.3 was closed and another opportunity was granted to petitioner to cross-examine PW1 on 05.08.2024. On 05.08.2024,



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the official witness summoned at request of defendant no.2 appeared but without records, so that witness was discharged, posting the matter to 24.08.2024 on an application for recall of earlier order dated 22.07.2024. On 24.08.2024, that application was disposed of and suit was listed for trial on 22.10.2024. On 22.10.2024, defendant no.2 filed a fresh application for summoning the above mentioned official witness but since, despite passover, main counsel for defendant no.2 did not appear, the learned trial court dismissed that application and closed cross-examination of PW1. Order dated 22.10.2024 was upheld by the learned trial court, by dismissing the review application by way of the impugned order.

3. I am unable to find any infirmity in the impugned order. There is nothing to explain as to why the official witness with record was not summoned prior to 22.10.2024.

4. However, solely in the interest of expeditious trial, learned counsel for respondent no.1/plaintiff submits that petitioner/defendant no.2 may be granted one and only one opportunity to conclude cross-examination of PW1, subject to heavy cost in addition to the cost already imposed by the trial court.

5. Under these circumstances, with consent of both sides, this petition and the accompanying application are disposed of, directing the petitioner/defendant no.2 to pay costs of Rs. 50,000/- to the respondent no.1/plaintiff within two weeks; both sides shall appear before the trial court



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on the date already fixed i.e., 16.12.2025, when the learned trial court shall fix a fresh date for concluding cross-examination of PW1 by defendant no.2; the defendant no.2 shall ensure that the official witness appears with the records on the date fixed for cross-examination of PW1. It is made clear that one and only one opportunity shall be granted to petitioner/defendant no.2 to conclude cross-examination of PW1, whether or not the summoned record is produced.

**GIRISH KATHPALIA
(JUDGE)**

DECEMBER 09, 2025/*dr*