



2025:DHC:9883



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 12.11.2025

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CM(M) 1337/2025 & CM APPL. 44059/2025**SHRI TARKESHWAR YADAV**

.....Petitioner

Through: Mr. Feroze Ahmad, Advocate.

versus

SHRI BALDEV SINGH THROUGH HIS LRS

.....Respondents

Through: None.

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

1. Petitioner/plaintiff has assailed orders dated 01.04.2025 and 27.05.2025 of the learned trial court. By way of order dated 01.04.2025, opportunity to cross-examine DW1 was closed and by way of order dated 27.05.2025, an application for recall of order dated 01.04.2025 was dismissed. Having heard learned counsel for petitioner/plaintiff, I find the case not fit to even issue notice.

2. Learned counsel for petitioner/plaintiff submits that there was no default on the part of the petitioner/plaintiff, so he deserves one more opportunity to cross-examine DW1. On being pointed out the previous record, learned counsel submits that the delay occurred also on account of the Covid pandemic. Learned counsel submits that he could not appear on 01.04.2025 due to some personal difficulty, so cross-examination of the witness ought not to have been closed.

3. This is a classic case of protraction of suit proceedings, that too, by the plaintiff himself.



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3.1 The suit is pending since the year 2016.

3.2 It appears that on 14.01.2019, when none appeared on behalf of petitioner/plaintiff despite repeated calls, cross-examination of DW2, who was present before the trial court, was closed and matter was posted to 26.03.2019 for final arguments. On 26.03.2019, adjournment was taken on behalf of petitioner/plaintiff on the ground that the learned counsel had filed fresh *vakalatnama*.

3.3 On the next date, 29.05.2019, instead of addressing final arguments, learned counsel for petitioner/plaintiff filed an application under Section 114 read with Order XVIII Rule 17 CPC and sought permission to conclude cross-examination of defendant's witnesses. The said application was allowed vide 25.07.2019 by the learned trial court subject to costs of Rs. 10,000/- to be paid to the respondent/defendant and the matter was posted for cross-examination of two witnesses of the defendant on 19.09.2019 and 16.10.2019.

3.4 On 19.09.2019, again an adjournment was requested by petitioner/plaintiff on the ground that his counsel was held up in some other court and the matter was adjourned to 16.10.2019. On 16.10.2019 also, both witnesses of defendant were present but adjournment was taken by learned counsel for petitioner/plaintiff present in the courtroom, and the reason advanced was that he was suffering from fever. On the next date 11.11.2019 again, adjournment was requested by son of the petitioner/plaintiff on the ground that their counsel was not available. Once again on the next date, i.e., 30.01.2020 also, counsel for petitioner/plaintiff did not appear, and plaintiff



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took adjournment on the ground that counsel was in the High Court.

3.5 That exercise of seeking adjournments continued across the period till 01.04.2025. It is on 01.04.2025 that the learned trial court rejected the adjournment request of proxy counsel for petitioner/plaintiff since the adjournment request was without assigning any reasonable cause.

4. The application seeking recall of order dated 01.04.2025 was dismissed by the learned trial court after traversing through the entire judicial record.

5. Of course, right to cross-examine a witness is a very valuable right. But where a party, that too the plaintiff himself does not want to exercise that right and continues to get the suit adjourned for as long as about six years, the only inference is that, it is being done with some oblique purpose.

6. I find no infirmity in the impugned order, so the same is upheld. The petition is not just completely devoid of merits but also totally frivolous, so dismissed with costs of Rs.10,000/- to be deposited by the petitioner/plaintiff with DHCLSC within two weeks.

7. Copy of this order be sent to the learned trial court to ensure compliance as regards costs.

**GIRISH KATHPALIA
(JUDGE)**

NOVEMBER 12, 2025/dr