



2025:DHC:8471



\$~82

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

%

Date of Decision: 23.09.2025

+

CM(M) 1890/2025, CM APPL. 60495/2025 & CM APPL. 60496/2025

M/S SUGBANDH PLATINUM PVT LTD

.....Petitioner

Through: Mr. Kumar Shubham Kushwaha,
Advocate.

versus

M/S MAYA JEWELLERS

.....Respondent

Through: Mr. Anil K. Bhasin, Advocate.

CORAM: JUSTICE GIRISH KATHPALIA

ORDER (ORAL)

1. The petitioner/plaintiff has assailed order dated 03.09.2025 of the learned trial court, whereby opportunity to cross examine DW1 was closed because despite last and final opportunity, counsel for the petitioner/plaintiff opted not to cross examine the witness.

2. Learned counsel for respondent/defendant appearing on advance intimation accepts notice and strongly opposes the petition, submitting that the petitioner/plaintiff is interested only in protracting the proceedings.



2025:DHC:8471



3. At request of both sides, I have heard final arguments today itself.

4. For convenience, the impugned order is extracted below:

“Adjournment sought on behalf of the plaintiff for cross-examination of DW1 on the ground that he has moved an application u/O.18 Rule 17 CPC for recalling PW Sh. Amit Verma. In the opinion of this Court, application for recalling of PW Amit Verma has no connection with the cross-examination of DW1. Accordingly, adjournment request is declined. Last and final opportunity has already been granted to the plaintiff to cross-examine DW1. Accordingly, opportunity of plaintiff to cross-examine DW1 stands closed.

It is submitted on behalf of the defendant that defendant wishes to close DE. His separate statement is recorded to this effect. In view of the statement of the defendant, DE stands closed.

Ld. Counsel for the defendant submits that he will file the reply to the aforesaid application during the course of the day. Let reply to the said application be filed with advance copy to the opposite party.

Put up for reply and arguments on application u/O.18 Rule 17 CPC alongwith connected matter on 25.09.2025.”

5. Learned counsel for petitioner/plaintiff contends that the impugned order is not sustainable in the eyes of law because no fair opportunity was granted to the petitioner/plaintiff for cross examination of DW1. Learned counsel for petitioner/plaintiff submits that his refusal to cross examine DW1 on 03.09.2025 was justified because his application under Order XVIII Rule 17 CPC for recall of plaintiff’s witness Amit Verma was pending. Learned counsel for petitioner/plaintiff also argues that the petitioner himself being the plaintiff in the suit for recovery of Rs.14,00,000/- towards cost of 500 grams of gold, no benefit would come to him by deliberately delaying the trial.



2025:DHC:8471



6. On the other hand, learned counsel for respondent/defendant contends that the respondent/defendant also had filed a counter-claim and consolidated evidence of the suit and the counter-claim is being recorded in the suit itself. The counter-claim of the respondent/defendant was for recovery of 3 kg gold, supplied to the petitioner/plaintiff under invoice. Learned counsel for respondent/defendant strongly supports the impugned order, submitting that as many as 48 dates of evidence were fixed before the trial court before the impugned order.

7. The argument of learned counsel for petitioner that petitioner himself being the plaintiff in the money recovery suit, the delay would not suit him, stands nullified by the fact that as against the petitioner's suit for recovery of Rs.14,00,000/-, the counter-claim of the respondent for recovery of 3 kg gold, presently costing more than Rs. 3,00,00,000/- is getting protracted.

8. More significantly, as reflected from the impugned order, the learned trial court refused to adjourn the matter on 03.09.2025 for the reason that the plaintiff's witness Amit Verma (*for whose recall application under XVIII Rule 17 CPC was pending*) was not even relevant for testimony of DW1. It is submitted by learned counsel for respondent that even the application under XVIII Rule 17 CPC was moved by the petitioner/plaintiff on 03.09.2025 itself. Once the trial court took a view that plaintiff's witness Amit Verma had no connection with cross examination of DW1 and declined the adjournment request, it being a case of last and final



2025:DHC:8471



opportunity, learned counsel for petitioner/plaintiff ought to have proceeded with the cross examination of DW1, but he refused. That being so, there was no option for the trial court except to close the cross examination of DW1. Even before this court no submission has been advanced by learned counsel for petitioner/plaintiff as to in what manner recall of Amit Verma had a bearing on further cross-examination of DW1.

9. On one hand, the trial courts are expected to decide the suits expeditiously while on the other hand, the counsel flatly refuses to cross examine the witness despite it being the last and final opportunity. Not just the adjudicators, but even the counsel have to now realise that it is high time we made a paradigm shift and sternly deal with any avoidable adjournments and efforts to protract. Extending any indulgence in such circumstances would not be appropriate in my considered view.

10. I find no infirmity in the impugned order, so the same is upheld and the petition as well as the accompanying applications are dismissed.

**GIRISH KATHPALIA
(JUDGE)**

SEPTEMBER 23, 2025/ry