



2025:DHC:10512



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

% *Date of Decision: 27.11.2025*

+ **CM(M) 2283/2025, CM APPL. 74305/2025 & 74304/2025**

UNITED POLY ENGINEERING PVT. LTDPetitioner

Through: Mr. Bhuvanesh Sehgal, Advocate

versus

YATRA ONLINE PVT. LTD.Respondent

Through: None

CORAM: JUSTICE GIRISH KATHPALIA

ORDER (ORAL)

1. Petitioner/plaintiff has assailed order dated 24.11.2025 of the learned trial court, whereby when despite passover the counsel for petitioner/plaintiff remained adamant not to cross-examine the witness of the respondent/defendant, the matter was adjourned subject to deposit of cost by the petitioner/plaintiff with DLSA. Having heard learned counsel for petitioner/plaintiff, I do not find it a fit case to even issue notice.

2. Broadly speaking, it appears that on 24.11.2025, when the authorized representative of respondent/defendant appeared for cross-examination, learned counsel for petitioner/plaintiff refused to cross-examine the witness on the ground that the earlier authorized representative who was partly cross-examined be produced again. Despite being repeatedly called upon to



conduct cross-examination of the defendant's witness present in court as the subject suit is an old suit awaiting disposal, counsel for petitioner/plaintiff firmly insisted that he would not cross-examine the said witness. Learned counsel for petitioner/plaintiff contended that he had no instructions from his client to cross-examine that witness, so the learned trial court passed over the matter. But even in second call, learned counsel for petitioner/plaintiff opted not to cross-examine the witness of defendant, so the learned trial court adjourned the matter, granting last opportunity to the petitioner/plaintiff to cross-examine the witness subject to deposit of cost.

3. Learned counsel for petitioner/plaintiff contends that the impugned order is not sustainable in the eyes of law because the authorized representative who had earlier been partly cross-examined ought to have been produced in the box, instead of examining the substituted authorized representative. Learned counsel for petitioner/plaintiff admits the legal position that on account of failure to produce the partly examined witness, adverse inference can be claimed or the portion of testimony of that witness supporting the case of the petitioner/plaintiff can be relied upon. It is contended by learned counsel for petitioner/plaintiff that merely because he consented for substitution of the authorized representative, he cannot be compelled to cross-examine the current authorized representative.

4. As reflected from the impugned order, the authorized representative of the respondent/defendant was substituted vide order dated 20.11.2025 with consent of the petitioner/plaintiff. That having been done, the obvious outcome was to permit examination of the substituted authorized



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representative.

5. As mentioned above, the learned counsel for petitioner/plaintiff remained adamant despite repeated directions of the trial court to cross-examine the witness and he insisted that he would cross-examine only the previous authorized representative. Of course, the learned trial court could have closed the cross-examination of the current authorized representative, but it appears from the overall content of the impugned order that the learned trial court in its wisdom granted another opportunity so that the suit, which is an old one, does not get further protracted by giving opportunity to the petitioner/plaintiff to challenge closure of cross-examination. The learned trial court in the impugned order not just quoted verbatim the expressions used by learned counsel for petitioner/plaintiff but also observed that the “plaintiff is only buying time”.

6. As mentioned above, in the first call on 24.11.2025, learned counsel for petitioner/plaintiff having failed to convince the learned trial court as regards his refusal to cross-examine the current authorized representative, took a plea that he needed to take instructions from his client, so the matter was passed over; but even in the second call, learned counsel for petitioner/plaintiff adhered to his earlier stand that the previous authorized representative be produced in the box.

7. Thence, it is not a case where right to cross-examine was closed. Rather, it seems that the learned trial court took a very lenient view and adjourned the matter subject to cost.



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8. I am unable to find any infirmity, much less any perversity in the impugned order which would call for intervention by this Court under Article 227 of the Constitution of India, so the impugned order is upheld.

9. The petition is not just devoid of merits but is also completely frivolous, so dismissed with cost of Rs.10,000/- to be deposited by the petitioner/plaintiff with DHCLSC within one week, in addition to the cost already imposed in the impugned order.

10. Copy of this order be sent to the learned trial court for information. The accompanying applications also stand disposed of.

**GIRISH KATHPALIA
(JUDGE)**

NOVEMBER 27, 2025/as