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

% ***Date of Decision: 05th May, 2025***

+ **CM(M) 842/2025 & CM APPL. 27167-27168/2025**

NARESH KUMAR NAGPALPetitioner

Through: **Mr. SS Sastry, Mr. Rajesh, Mr. Suman, Adv.**

versus

MAHENDER NAGPAL & ANR.Respondent

Through: **Mr. Harish Malhotra, Sr. Adv. with Mr. S.D. Dixit, Adv.**

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is defending a civil suit and is aggrieved by order dated 21.04.2025 whereby his request to examine other witnesses has been declined.
2. The petitioner has already entered into witness box himself as DW-1.
3. Learned senior counsel for the respondent/ plaintiff appears on advance notice.
4. During course of the arguments, the petitioner has limited his request to the extent that he will only examine Ms. Uma Kathuria (his cousin sister) as one of his witnesses. He also submits that his one another sister Smt. Shashi Gogia had been examined and cross-examined in one partition suit (stated to have been filed by the Smt. Shashi Gogia and others) and he further submits



that the permission may be granted to place on record the certified copy of such deposition, with request to learned Trial Court to consider the same at the time of final arguments.

5. Learned senior counsel for the respondent/ plaintiff, on instructions, submits that in order to avoid any further delay in the matter, he would have no objection if the abovesaid limited request is acceded to.

6. Accordingly, the present petition is disposed of with liberty to defendant/petitioner herein to examine Ms. Uma Kathuria in his defense. However, it would be sole responsibility of the defendant to place on record her affidavit and thereafter as per the direction of the learned Trial Court, such witness would appear before the Court for the purposes of *examination/ cross-examination*.

7. Simultaneously, the defendant is also permitted to place on record certified copy of the deposition made by Smt. Shashi Gogia in said *partition suit* and the learned Trial Court would be at liberty to consider the same at the time of final arguments.

8. The next date before the learned Trial Court is 26.05.2025 and let the affidavit of said witness may be submitted before the learned Trial Court on said date with advance copy to opposite side.

9. Said witness would also appear before the learned Trial Court and it will be entirely up to the learned Trial Court, depending on its board position, to see whether such witness can be examined same day or not.



2025:DHC:3353



10. The petition along with pending application stands disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

MAY 5, 2025/neha/shs