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

% ***Date of Decision: 08th May, 2025***

+ **CM(M) 868/2025 & CM APPL. 27914-27915/2025**

MS PRIME GOLD SAIL JVC LIMITED

.....Petitioner

Through: Mr. Anjaneya Mishra with Mr. Sahil
and Mr. Nidish, Advocates.

versus

SHUBHAM STEEL INDUSTRIES

.....Respondent

Through: Mr. Karan Valecha with Mr.
NamanTandon and Mr. Vishal
Singhal, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is plaintiff before the learned Trial Court.
2. After framing of issues, a list of witnesses was filed by the plaintiff in which he mentioned four witnesses. Out of such four witnesses, two witnesses have already been examined and one has been dropped.
3. The petitioner, merely, seeks to examine the sole left out witness Mr. Sanjeev Agarwal.
4. Learned counsel for the petitioner admits that the plaintiff should have been careful and should have taken requisite steps for the purposes of his examination at the earliest available opportunity. However, at the same time,



he submits that there is no ulterior objective involved here and since the name of this witness was disclosed in the list of witnesses, which was filed before the learned Trial Court at first available opportunity, such witness should be permitted to be examined.

5. Learned counsel for respondent/defendant appears on advance notice and submits that thereafter the matter was taken up on several occasions and the defendants have closed their evidence and the case is now fixed for final arguments on 17.05.2025. It is also submitted that the learned Trial Court has carefully considered the entire background facts and the impugned order does not suffer from any illegality or perversity as despite having clear-cut opportunity, the abovesaid witness was not brought before the Court. He supplements that if, for any reason, the petitioner is permitted to examine said witness, the opportunity should also be granted to them to examine any further witness in light of the testimony of said proposed witness, of the plaintiff.

6. Undoubtedly, the petitioner/plaintiff should have taken requisite steps for the purpose of examining for said witness when the case was at the stage of PE.

7. Needless to say, the suit being commercial in nature, even otherwise, has to be fast-tracked.

8. Be that as it may, keeping in mind overall facts of the case and after hearing learned counsel for both the sides, the present petition is disposed of with request to the learned Trial Court to permit examination of said witness i.e. Sanjeev Agarwal. Copy of the affidavit of the said witness shall be supplied to the opposite counsel, atleast, three days in advance, so that, if required, the cross-examination can take place on 17.05.2025 itself.



9. Simultaneously, after such examination is concluded, the defendant would also be at liberty to examine any other witness. A request to that effect, if required, may be made to the learned Trial Court same day when the examination of PW-1 is concluded.

10. It is also made clear that the petitioner is entitled to only one opportunity in this regard and, in case, it fails to produce abovesaid witness on the next date of hearing i.e. 17.05.2025, it would not be entitled to any further opportunity.

11. For causing delay in the mater, petitioner is also burdened with a cost of Rs. 10,000/- which shall be deposited with the concerned District Legal Services Authority, on or before 17.05.2025.

12. Petition stands disposed of in aforesaid terms.

13. Pending applications also stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

MAY 8, 2025/sw/SS