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

% **Date of Decision: 09th May, 2025**

+ CM(M) 629/2025 & CM APPL. 19853-19854/2025

NARESH KUMAR GARGPetitioner

Through: Mr. Vibhav Mishra and Ms. Renu
Bhandari, Advocates.

Versus

BTW INDIA PVT LTDRespondent

Through: Mr. Aditya Chopra, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The point is raised in the present petition is very short and precise.
2. The petitioner herein is defendant and, earlier, when he had approached this Court seeking permission to lead evidence in defence, such request was allowed *vide* order dated 18.12.2023 passed in CM(M) 2092/2023 and he was granted one opportunity to examine himself and, simultaneously, he was burdened with cost of Rs.40,000/-.
3. Learned counsel for petitioner submits at the Bar that cost of Rs.40,000/- was paid, in his presence, to the then counsel for petitioner i.e. Mr. Varun Sikka. However, no examination took place on 20.12.2023 as it was apprised to the Court that the order had not been uploaded on the website of this Court and the copy was not available.
4. On next date i.e. 21.02.2024, the said witness was not present and, moreover, defendant also moved an application seeking permission to bring on record some ledger statements. Such application was, however, dismissed by the learned Trial Court on 14.08.2024.
5. On 16.10.2024 also, the witness did not appear before the Court and request for adjournment was made on the ground that his wife was not well.



6. The next date before the learned Trial Court is stated to be 19.07.2025.
7. Learned counsel for the petitioner (defendant before the learned Trial Court) submits that the affidavit of the proposed witness is already on record and copy thereof has already been supplied to opposite side. He also submits that defendant would not move any further application in the matter and would ensure that the abovesaid witness appears before the learned Trial Court on the fixed date.
8. Learned counsel for the respondent/plaintiff submits that, though, the petitioner is not entitled to any further indulgence, he would have no objection if one last opportunity in this regard is granted to him, *albeit*, subject to additional cost.
9. The petition is, accordingly, disposed of with direction to the concerned witness of defendant to appear before the learned Trial Court on the date fixed i.e. 19.07.2025 for the purposes of his examination/cross-examination. It is clarified that defendant would be entitled to only one opportunity in this regard and under no circumstance, his request for adjournment or grant of another opportunity would be entertained.
10. Simultaneously, for causing further delay in the matter, the petitioner is burdened with cost of Rs.10,000/- which shall also be cleared on the date fixed i.e. 19.07.2025 before the learned Trial Court.
11. The present petition stands disposed of in aforesaid terms.
12. The pending application also stands disposed of.

(MANOJ JAIN)
JUDGE

MAY 9, 2025/ss/SS