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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 11<sup>th</sup> July, 2025*

+ CM(M) 1197/2025 & CM APPL. 40405-40406/2025

MUHAMMED AKKOYUN

.....Petitioner

Through: Mr. Paras Joshi, Advocate.

versus

FLUPER LIMITED

.....Respondent

Through: None.

**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 and has filed a suit which is commercial in nature.
2. Learned Trial Court framed issues on 14.02.2025 and in terms of *case management hearing*, fixed up dates for purposes of evidence and arguments.
3. The plaintiff's evidence was directed to be conducted on 01.04.2025 and 02.04.2025.
4. When the matter was taken up by the learned Trial Court on 01.04.2025, it was informed that plaintiff was resident of Australia and he wanted to be examined though *video conferencing*. Learned Trial Court though permitted him to move appropriate application in this regard, but subjected him with a cost of Rs. 25,000/-, to be deposited with DLSA.



5. An application was moved by him seeking recall of the abovesaid order whereby the cost of Rs. 25,000/- was imposed, however, the learned Trial Court has refused to waive such cost.
6. Such order is under challenge.
7. According to learned counsel for petitioner, after the issues were framed, the petitioner was in constant touch with the Indian Embassy situated in Australia but he never received any concrete response. He also refers to the *e-mails* sent by him to the Indian Embassy and submits that in such a situation, the learned Trial Court should have waived the cost as there was no deliberate attempt to delay the proceedings. It is also submitted that the petitioner being plaintiff is, even otherwise, interested in expeditious disposal of his matter but the delay has occasioned for the reasons, which were, apparently, beyond his control.
8. Learned counsel for petitioner also submits that the learned Trial Court has fixed up the suit for evidence of plaintiff on 13.08.2025, as last and final opportunity and in case, there is no proper response from the side of Indian Embassy, the learned Trial Court may not give another opportunity to the petitioner. This Court, however, feels that in case there is no response, the Trial Court would consider the same and if required, it may give him another opportunity. It may even, through official *e-mail*, send appropriate communication to the Indian Embassy situated in Australia so that the requisite arrangements are made, without there being any further delay in the matter.
9. Present petition has been filed under Article 227 of Constitution of India and the interference can only be made if there is some illegality and perversity in the order.



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10. Undoubtedly, keeping in mind the overall facts of the case, the cost looks excessive but this Court does not feel it appropriate to interfere with the impugned order.

11. Petition, is accordingly, dismissed.

12. However, at the same time, keeping in mind the facts presented before this Court, petitioner is granted liberty to move application afresh before the learned Trial Court seeking waiver of the cost and this Court expects that the learned Trial Court would decide such application, without getting influenced by its previous order dated 01.04.2025.

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

**(MANOJ JAIN)**

**JUDGE**

**JULY 11, 2025/sw/JS**