



2025:DHC:6793



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

% ***Date of Decision: 11th August, 2025***

+ **CM(M) 1251/2025 & CM APPL. 41993/2025**

F.C.S. SOLUTIONS LTD.

.....Petitioner

Through: Mr. Vivek Sharma, Adv.

versus

A.P. ASSOCIATES

.....Respondent

Through: Mr. Amit, Mr SS Dhir, Mr. Sidhartha, Ms Himani, Mr Keshav Soni, Advs.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM(M) 1251/2025 & CM APPL. 41993/2025

1. The petitioner herein is defending a *commercial suit* and has also filed a *counter-claim*.
2. During the pendency of the abovesaid commercial suit, the defendant (petitioner herein) filed an application under Order XI of the Code of Civil Procedure, 1908 ('CPC') which has been dismissed.
3. Such order dated 24.03.2025 is under challenge.
4. The point raised in the present petition is very short and precise.
5. According to the petitioner, when it had filed its written statement, it annexed several documents along with the same and due to some clerical error, the complete copy of "*Inspection and Verification Report of Electrical*



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Equipments For FCS Solutions Ltd.' prepared by 'GN Fair Valuation Pvt. Ltd.' dated 10.12.2021 was not attached and only 09 pages of the abovesaid report were attached.

6. The abovesaid document was exhibited as Ex. DW-1/D but due to the abovesaid inadvertent error, the report could not be proved *in toto* and Annexure A-an integral part of the abovesaid report, could not be placed and proved. The limited request before the learned Trial Court was, therefore, to the effect that since the document had been duly exhibited already, *albeit* in part, the permission may be granted to exhibit the same document *in toto*.

7. Learned counsel for the respondent/plaintiff submits that since plaintiff does not want any further delay in its own suit, he would have no objection if the abovesaid limited request is granted and its application moved under Order XI CPC is allowed, *albeit*, subject to imposition of exemplary cost.

8. He submits that suit in question seeks recovery of Rs. 79 lacs and has already got delayed considerably for the abovesaid reason.

9. Learned counsel for the petitioner, however, submits that there was never any intention to delay the disposal of the suit and it was mere inadvertent and unintended omission and, therefore, if the Court allows this petition, the cost should not be excessive.

10. Keeping in mind the overall facts of the case and also noticing the gracious concession given by learned counsel for respondent/plaintiff and also keeping in mind the nature of the request, the petition is allowed by directing that the defendant would be at liberty to make reference of the abovesaid report *in toto*, including Annexure A, by entering into witness box.

11. Needless to say, plaintiff would be at liberty to take permissible objection with respect to the exhibition of the abovesaid document and would be also at liberty to cross-examine DW-1 further with respect to the abovesaid document.



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12. Simultaneously, for causing delay in the matter, the petitioner is burdened with cost of Rs. 25,000/- which shall be paid to the plaintiff on the next date of hearing which is stated to be 19th instant.

13. The present petition along with pending application stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

AUGUST 11, 2025/neha