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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 503/2025 & CM APPL. 15460/2025
SIDDHARTH GUPTAPetitioner
Through: Mr. Raashish Rana and Ms. Tanvi
Jain, Advocates.

versus

GARUDA CONSTRUCTION AND ENGINEERING PVT. LTD.
.....Respondent
Through:

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER
17.03.2025

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1. The petitioner has filed a commercial suit seeking recovery of a sum of approximately Rs. 7 lacs.
2. When the matter was taken up by the learned Commercial Judge on 07.01.2025 for plaintiff's evidence, noticing that neither any list of witnesses had been filed nor any affidavit by way of evidence had been filed, and the fact that no witness of the plaintiff was present in Court, the learned Trial Court granted one more opportunity to lead evidence, subject to cost of Rs.10,000/-.
3. The grievance in the present petition is merely limited to the imposition of cost.
4. Learned counsel for the petitioner submits that the learned Trial Court did not appreciate the fact that the list of witnesses as well as the affidavit were placed on record by the plaintiff on 04.01.2025 and, therefore, the imposition of cost was not warranted.
5. Learned counsel for the petitioner/plaintiff, when asked, showed the order dated 02.08.2024 passed by the learned Trial Court. By virtue of such



order, the Court had directed the petitioner/plaintiff to file list of witnesses within two weeks. Obviously, such direction was also given to the opposite side.

6. Fact, however, remains that the petitioner himself did not file the *list of witnesses* within the stipulated period.

7. The abovesaid order also contained a direction to the petitioner to supply copies of affidavits of witnesses to the opposite side, at least one week prior to the next date of hearing. Even such direction was not taken in the right earnest as, even according to the petitioner, such affidavits were filed in the Court on 04.01.2025 and on the same date, these were supplied to the opposite counsel.

8. As per observations appearing in order dated 07.01.2025, when the Court had taken up the above said matter, no witness was found present and therefore, it cannot be said that imposition of cost was unwarranted or unjustified. Moreover, such discretionary exercise of power of imposition is not amenable to challenge by filing a petition under Article 227 of the Constitution of India and the Court only interferes when there is any perversity in any such order.

9. Keeping in mind the aforesaid discussion, this Court does not find any reason to interfere with the impugned order. Resultantly, the petition stands dismissed.

10. Pending applications, if any, also stand disposed of.

MANOJ JAIN, J

MARCH 17, 2025/uk/pb