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

% ***Date of Decision: 19th August, 2025***

+ CM(M) 2140/2024

CLASSIC IMPORTS INC.Petitioner

Through: Mr. Kuljeet Rawal, Mr. Aditya Joshi
and Mr. Shivansh Bansal, Advocates

versus

M/S CORNELL OVERSEAS PVT LTD AND ORSRespondent

Through: Mr. Srinivasan Ramaswamy,
Advocate for R-1

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 50803/2025 (exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 2140/2024 & CM APPL. 50752/2025

1. Petitioner, as defendant no. 1, is defending a suit for recovery.
2. The aforesaid suit is now at the stage of final arguments.
3. Fact remains that as far as defendant no. 1 M/s Classic Import Incorporation is concerned, no witness was examined by them in their defence.
4. One Mr. Ramesh Arora is reportedly Managing Director/CEO of the aforesaid company and he joined the proceedings through *videoconferencing* and apprised the learned Trial Court that he was unable to depose on account of his ill-health.
5. Such fact is found to be recorded in order dated 02.06.2023.
6. Thereafter, when the matter was taken up by the learned Trial Court on



04.08.2023, learned counsel for defendant no. 1 sought liberty to file application seeking to examine son/ attorney of Mr. Ramesh Arora.

7. Application was accordingly moved by defendant no. 1 in which it was clearly averred that since Mr. Ramesh Arora was 79 years of age and was not keeping well and was not in a position to make deposition before the learned Trial Court, his son Mr. Sarvesh Arora, who had been appointed attorney by him, had been authorized to depose before the Court. It was also mentioned in the application that since he was in the same line of business and was aware of the facts and details of subject transactions *inter se* plaintiff and defendant no. 1, he was personally acquainted with the facts and, therefore, a request was made to learned Trial Court to record his deposition.

8. Learned Trial Court has, however, declined the aforesaid request, primarily, for the reason that matter was pending at the stage of defendant's evidence since 28.04.2018 and all these years, defendant no. 1 did not take any step to examine anyone in its defence.

9. A careful perusal of impugned order would, though, clearly indicate that the observations made by the learned Trial Court are in synchronization with the court proceedings and the opportunity to lead evidence was available since the year 2018, fact remains that recording of evidence has got delayed, primarily, on account of poor health of the Managing Director of defendant no. 1 company.

10. Obviously, if no evidence is led by defendant no.1, it may seriously prejudice its case.

11. Next date before the learned Trial Court is stated to be 24.12.2025.

12. Learned counsel for respondent/plaintiff submits that the impugned order does not call for any interference as the defendant no. 1 could have



examined its attorney in the year 2018 itself and has delayed the aforesaid examination for more than five years and, therefore, there is no reason for it to seek any opportunity, even, on compassionate ground.

13. Undoubtedly, defendant no. 1 should have been cautious and careful and this Court is also not unmindful of order dated 05.07.2018 whereby they were granted final opportunity to lead defendant's evidence with the specific observation that failing which, no further opportunity would be granted.

14. However, at the same time, at later point of time, on account of pandemic of Covid-19, there was no progress in the suit and when Mr. Ramesh Arora appeared through *videoconferencing* on 02.06.2023, he expressed his inability to depose before the Court on account of his ill-health.

15. It was in the aforesaid backdrop only, the learned Trial Court permitted him to withdraw his application with liberty to file appropriate application.

16. Keeping in mind the facts presented before the Court, one last opportunity is granted to defendant no. 1 to examine its said attorney before the learned Trial Court, subject to cost of Rs. 30,000/- to be paid to the plaintiff.

17. Both the parties are requested to appear before the learned Trial Court on 01.09.2025 at 10.00 AM and learned Trial Court would consider the application moved by defendant no. 1 whereby it is seeking to frame one additional issue and would after disposal of the aforesaid application, learned Trial Court would fix a date for recording evidence of attorney of defendant no. 1.

18. Cost be also cleared on 01.09.2025.

19. It is, however, made clear that defendant no. 1 would be entitled to only one single opportunity in this regard and would not be entitled to seek any



further accommodation or adjournment on any ground whatsoever.

20. Petition stands disposed of in the aforesaid terms.

21. Date already fixed i.e. 11.12.2025 stands cancelled.

(MANOJ JAIN)
JUDGE

AUGUST 19, 2025/dr/shs