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

% *Date of Decision: 22<sup>nd</sup> July, 2025*

+ CM(M) 1033/2025 & CM APPL. 33819-33820/2025  
JAGDISH LAL SACHDEVA

.....Petitioner

Through: Mr. Alok Dev and Mr. Adamaya Pal  
Singh, Advocates alongwith petitioner  
in Person.

versus

DHARAM SINGH & ORS.

.....Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ JAIN**

**JUDGMENT (oral)**

1. Since there was no appearance from the side of the respondent Nos. 1, 2 & 3 despite service, the matter was passed over but when it was taken up after lunch, again, there is no representation from the side of those respondents who are duly served.
2. The point involved is very short.
3. The petitioner is plaintiff No.1 before the learned Trial Court and appeared before the learned Trial Court on 29.04.2025 for the purposes of recording of his evidence.
4. The learned Trial Court, observing that he was not interested in entering into witness box, discharged him and has also closed evidence of plaintiff.
5. Such order dated 29.04.2025 is under challenge.



6. The contention made by the plaintiffs is to the effect that since plaintiff No.1 was not conversant with English language and his counsel was not present in the Court at the relevant time, he, merely, wanted to wait for his counsel, so that, in the presence of his counsel, he is cross-examined by his adversary.
7. It is submitted that despite the fact that the counsel for the plaintiff also appeared before the learned Trial Court in the process, learned Trial Court, still, closed the opportunity of the plaintiff to lead evidence.
8. Undoubtedly, when the matter was earlier taken up by the learned Trial Court on 16.01.2025, the plaintiff had appeared before the Court but did not enter into witness box claiming that he was not well and was feeling feverish and the learned Trial Court gave indulgence to him and adjourned the matter for 29.04.2025.
9. The order dated 29.04.2025 would, however, clearly indicate that the matter was passed over for awaiting the counsel for plaintiff and since the counsel for plaintiff did not appear, despite the fact that the matter had been passed over, the learned Trial Court, observing that witness was not inclined to enter into witness box, has closed his right to lead evidence.
10. Of course, ideally speaking, counsel for plaintiff should have ensured his presence and if he was busy elsewhere, adequate alternate arrangement should have been made.
11. Fact, however, remains that plaintiff No.1 was very much present in the Court throughout. The matter was also passed over as he wanted his counsel to come. The reluctance, on his part, was on account of unavailability of his counsel, *albeit*, he should have offered himself for cross examination which in any case was to be conducted in presence of the Court.



12. Keeping in mind the overall facts and circumstances of the case, the petition stands disposed of with the direction that petitioner would be permitted to lead his evidence.
13. The next date before the learned Trial Court is stated to be 20.09.2025 and, on that day, the learned Trial Court shall fix up dates for his examination and also for examination of his other witnesses as per the list of witnesses already filed before it. Needless to say, it would be upon assessing the relevancy of such proposed witnesses.
14. For causing delay, the petitioner is burdened with cost of Rs.10,000/- which be deposited with Delhi Legal Services Authority, North-West District, Rohini Courts, Delhi, within four weeks from today. Acknowledgment to that effect be submitted before the learned Trial Court.
15. The petition stands disposed of in aforesaid terms.
16. Pending applications stand disposed of in aforesaid terms.

**(MANOJ JAIN)**  
**JUDGE**

**JULY 22, 2025/ss/SS**