



2025:DHC:7300



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 22nd, August, 2025***

+ CM(M) 1578/2025, CM APPL. 51902/2025 & CM APPL. 51903/2025

CHANDER SHEKHAR SETHI AND ANRPetitioner

Through: Mr. Anuroop P.S., Mr. Vikas Dudeja,
Mr. Sachin Wadhwa and Mr. Gaurav
Bidhuri, Advocates

versus

VINOD SETHIRespondent

Through: Mr. Somesh Arora, Mr. Aryan Arora,
Ms. Reet Kaur Arora, Mr. Navneet K.
Shukla and Ms. Richa Sharma,
Advocates**CORAM:****HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

1. Petitioner is defending a suit filed by his brother whereby his brother Mr. Vinod Sethi is seeking *possession, mesne profits and injunction*.
2. Plaintiff appeared for the purposes of leading evidence for the first time before the learned Trial Court on 17.05.2023. On that day, there was no appearance from the side of defendant and learned Trial Court recorded the evidence of PW1 Mr. Vinod Sethi and discharged him. Plaintiff's evidence was also closed and the matter was fixed for defendant's evidence.
3. An application was moved by the defendant on 12.09.2023 whereby he requested for one opportunity to cross-examine the plaintiff. According to defendant, non-appearance was solely for the reason that a wrong date had been noted in the diary maintained by clerk of his counsel.



2025:DHC:7300



4. Learned Trial Court discarded such reason and has, resultantly, dismissed the application moved under Order XVIII Rule 17 CPC.
5. Such order is under challenge.
6. As already noticed above, the suit is between the two brothers and the plaintiff is reportedly settled abroad.
7. During course of arguments, learned counsel for petitioner/defendant reiterated that aforesaid date was the first date on which the plaintiff had appeared for the purposes of leading evidence and it was only on account of inadvertent wrong noting of the date that there was no appearance from the side of the defendant and submits that he is ready to bear the air fare if the plaintiff has to come again, all the way from United States of America (USA).
8. Learned counsel for petitioner/defendant submits that he has challenged two other orders passed by learned Trial Court in the same suit and irrespective of the aforesaid two petitions, it will be ensured that plaintiff is cross-examined on the date to be given in this regard by the learned Trial Court.
9. Learned counsel for respondent/plaintiff submits that though the impugned order does not disclose any illegality or perversity, necessitating any interference by this Court, he would have no objection if one last and final opportunity is granted to petitioner/defendant in this regard subject to imposition of exemplary cost.
10. Next date before the learned Trial Court is stated to be 19.09.2025.
11. Keeping in mind the overall facts and circumstances of the case and the fact that the plaintiff has to come all the way from USA, and also appreciating gracious concession given by learned Counsel for respondent/plaintiff, the present petition is disposed of with direction that petitioner/ defendant would



2025:DHC:7300



be entitled to one effective opportunity to cross-examine PW1 Mr. Vinod Sethi and no further request in this regard, on any ground whatsoever, shall be entertainable. After ascertaining the availability of PW1 Mr. Vinod Sethi in India, learned Trial Court shall fix up a date so that on said date, defendant can cross-examine plaintiff.

12. However, for causing delay in the matter and for not cross-examining the witness, at the first available opportunity, such cross-examination shall be subject to cost of Rs. 1 lac. Let the cost be cleared on the date fixed i.e. 19.09.2025 before the learned Trial Court.

13. Petition stands disposed of in aforesaid terms.

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

(MANOJ JAIN)
JUDGE

AUGUST 22, 2025/dr/pb