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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of decision: 29th October, 2024***
+ CM(M) 3744/2024 & CM APPL. 63885-63887/2024
M/S. SONAM FURNITURE

.....Petitioner
Through: Mr. Mudit Sharma, Ms. Nandini
Sharma, Mr. Parvez A. Khan and Mr.
Abhishek Rathi, Advocates.

versus

WOOD TECH CONSULTANTS PVT. LTD. & ORS.
.....Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
J U D G M E N T (oral)

1. The petitioner has filed a Commercial Suit seeking recovery and is aggrieved by order dated 19th October, 2024 whereby its twin request has been declined.
2. Primarily, the petitioner wanted to cross-examine one Chartered Engineer- Mr. Jitender Kumar Sharma, who had been appointed for the purposes of inspection of the machinery in question vide order dated 1st August, 2024. According to learned counsel for the plaintiff, though the report of such Chartered Engineer had been submitted before the learned Trial Court but plaintiff had filed certain objections and for effective consideration and disposal of his such objections, he made request before the learned Trial Court to permit him to cross-examine said Mr. Jitender Kumar Sharma but



such request has been declined.

3. The second request was to permit him to recall its expert Mr. Anubhav Aggarwal, who had also given a supplementary report, on the point involved.

4. Admittedly, Mr. Anubhav Aggarwal, has already been examined and cross-examined. It seems that, only after the report was given by said expert Mr. Jitender Kumar Sharma, the plaintiff seems to have contacted its such expert again, who has, thereafter, given a supplementary report. It was in the above said factual backdrop that the learned Trial Court held that there was no reason to call Mr. Anubhav Aggarwal again for further examination while observing that such supplementary report had been obtained by the plaintiff without prior permission of the Court and also that it was obtained at a belated stage.

5. However, with respect to the second aspect, i.e., consideration of the objections qua report of Chartered Engineer- Mr. Jitender Kumar Sharma, and request to cross-examine him, the learned Trial Court has not closed the chapter finally as it is recorded in the impugned order that such aspect would be considered along with final submissions and, in case, the learned Trial Court felt that there was any necessity of calling such engineer for examination/cross-examination, he would be called.

6. The apprehension of the learned counsel for petitioner/plaintiff is that the learned Trial Court may not, while disallowing such request, dispose of the suit as well simultaneously.

7. In view of the above said apprehension, which though seems to be little misplaced, the present petition is disposed with the request to the learned Trial Court to consider the above said aspect, before finally deciding the above said suit. This would, at least, give some breather to the



petitioner/plaintiff so that, in case, it is aggrieved by any such order, it can seek appropriate remedy.

8. The petition stands disposed of in the aforesaid terms.

9. However, this Court wishes to clarify that it has not expressed any opinion about the aforesaid aspect and it will be entirely upto the learned Trial Court to take decision with respect to the above said request regarding objections and whether there is any requirement to call Mr. Jitender Kumar Sharma for cross-examination or not.

10. All rights and contentions of the parties are reserved.

11. Order dasti, under the signatures of the Court Master.

(MANOJ JAIN)
JUDGE

OCTOBER 29, 2024/ss