



\$~82

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

*Date of Decision: 04<sup>th</sup> May, 2026*

+ CM(M) 1013/2026, CM APPL. 29818/2026, CM APPL. 29819/2026  
& CM APPL. 29820/2026

M/S. RAJBIR TIMBER TRADERS .....Petitioner

Through: Mr. Mankan Deep Singh Bammi, Mr.  
Manish Kumar and Ms. Nida Akhtar,  
Advocates.

versus

ANIK WALIA .....Respondent

Through: Mr. Parvez Bashista and Mr. Malay  
Misra, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA**

**ORDER (Oral)**

**Rajneesh Kumar Gupta, J.**

1. This hearing has been conducted through hybrid mode.
2. The present petition has been filed by the petitioner/plaintiff under Article 227 of the Constitution of India, 1950, assailing the order dated 09<sup>th</sup> April, 2026, passed by the learned Trial Court in CS (COMM) No. 225/2023, whereby the application filed by the petitioner/plaintiff under Order XVIII Rule 17 read with Order XVI Rule 1 and Section 151 of the Code of Civil Procedure, 1908, ('CPC') seeking summoning of witnesses has been dismissed.
3. Learned counsel for the respondent appears on advance notice and accepts notice.
4. The matter is taken up for hearing today with the consent of the learned



counsel for both the parties.

5. Heard. Record perused.

6. Learned counsel appearing on behalf of the petitioner has argued that the trial Court has passed the impugned order on the basis of surmises and conjectures, which is against the facts and law. It is further argued that the petitioner wants to examine two (02) witnesses, as detailed in paragraph no. 6 of the application, as the examination of these witnesses is necessary for a just and fair adjudication of the case.

7. *Per contra*, learned counsel appearing on behalf of the respondent has argued that the trial court has passed the impugned order after duly considering the material on record and the present application has been moved by the petitioner only to fill up the lacunae in the case of the petitioner. Accordingly, it is prayed that the present petition be dismissed.

8. The relevant portion of the impugned order dated 09<sup>th</sup> April, 20206 reads as follows:

*“Today, matter is listed for final arguments after conclusion of respective evidences. Plaintiff evidence was closed on 14.08.2025 and defendant evidence was closed on 12.03.2026. Pleadings of the case reflects that defendant had denied the payments right from beginning and, therefore, it is incorrect on the part of the plaintiff to say that he was expecting that defendant would admits the payment at the trial. In any case, this is a clear attempt on the part of the plaintiff to fill the lacunae in evidence which is not appreciated in the law. The claim of the plaintiff that in case this application is not allowed he would be deprived of opportunity to prove amounts to putting an allegation on the procedure of the courts wherein plaintiff had already availed the opportunity to lead his evidence. Therefore, in these circumstances, there is no merit in the application to allow the same. Accordingly, the application is hereby dismissed.”*



9. From the record, it is evident that the application under Order XVIII Rule 17 read with Order XVI Rule 1(A) of the CPC has been moved at a stage when the matter was fixed for final arguments. The petitioner has already been afforded an opportunity to lead his evidence, and only after which his evidence has been closed. The witnesses which the petitioner wants to examine at this stage could have been examined by him before he closed his evidence. It is also pertinent to note that, previously *vide* order dated 15<sup>th</sup> March, 2024, the trial court has dismissed the application under Order XI of the CPC filed by the petitioner, seeking permission to place on record additional documents in form of invoices, acknowledgement dated 03<sup>rd</sup> September, 2015, TDS documents and certain e-mails alongwith certificate under Section 65 B of the Indian Evidence Act, 1872.

10. After considering the facts and circumstances of the case, this Court is of the view that the present application filed by the petitioner to summon the witnesses is only to fill-up the lacunae, if any, in the case of the petitioner and there is no sufficient cause to allow the application. The trial court has passed a well-reasoned order in accordance with law. Accordingly, this court does not find any infirmity in the impugned order and the same is upheld. The present petition is dismissed as being devoid of any merits. Pending application(s), if any, also stand disposed of.

**RAJNEESH KUMAR GUPTA, J**

**MAY 04, 2026/v/isk**