

20 CS (COMM) 630/2022
SAMRAT BEHL PROP. SAMRAT BEHL'S PHOTOGRAPHY
VS.
GARG VILLAS PRIVATE LIMITED

25.03.2026

Vide this order, I shall decide the application u/s151 CPC r/w Delhi High Court Rules on behalf of the plaintiff seeking to record the plaintiff evidence and cross examination through VC.

Ld. Counsel for the plaintiff submits that the plaintiff is working in Maryland USA and settled there and comes to India for brief durations. PW1 is partly cross examined before the LC, however he has to go back to the USA, therefore could not turn up for cross examination, thus requesting further cross examination through VC.

In reply, Ld. Counsel for defendant submits that the present application is not maintainable at this stage and become infructuous as both the plaintiff evidence as well as defendant evidence stands concluded. Ld. Counsel submits previously also an application for recording of evidence through VC was filed in 2024 without any supporting affidavit and without schedule and further also conceals the said fact in present application. Ld. Counsel submits that the pleadings in this case completed on 27.01.21024, then issues were framed and matter is posted for plaintiff evidence on 16.03.2024, however despite number of opportunities, plaintiff failed to file the evidence affidavit of witness. On 11.11.2025, Ld. Counsel for the plaintiff undertook to the supply copy of evidence affidavit and the matter was referred to Local Commissioner for recording of evidence on 17.11.2025 and it is specifically directed by this court that in case

the parties failed to lead the evidence or cross examine the witness before the Ld. Local Commissioner on the dates fixed before him, their right to do so shall be deemed to be closed. The defendant despite undertaking supplied the evidence affidavit on 17.11.2025 i.e. on the date fixed for recording of evidence, therefore examination in chief was recorded on 17.11.2025 then the matter was taken on 18.11.2025, and on that day adjournment was sought by plaintiff, thereafter on 20.11.2025, part cross examination of PW1 was conducted. On 21.11.2025, the adjournment was sought by defendant on the ground that matter is listed before the High Court as already informed. On 01.12.2025, adjournment was sought by the plaintiff, thereafter on 06.12.2025 also the adjournment was sought by the plaintiff, however Ld. LC closed the evidence. Ld. Counsel submits that the plaintiff has already delayed the matter and has been given number opportunities and now after conclusion of evidence, cannot be allowed again to go through cross examination through video conferencing. Ld. counsel submits that the present application has no merits, hence liable to be dismissed.

Heard. Record perused.

On completion of pleadings, the issues were framed on 27.01.2024 and the matter was posted for PE on 16.03.2024, DE on 01.04.2024 and final arguments on 25.04.2024. Thereafter, the matter was sent to Mediation Cell on 06.04.2024, however no compromise took place, thereafter again the case management hearing for PE fixed for 27.04.2024, 31.07.2024, DE for 05.08.2024 and 08.08.2024 and final arguments on 17.08.2024. However, no affidavit of evidence was filed by the plaintiff and moved an application for recording of

evidence through VC. On 05.06.2025, Ld. Counsel for plaintiff sought time to move fresh application for recording of evidence through VC curing all defects, then the matter was again sent to Mediation Cell on 16.07.2025 but the matter could not be settled and listed for PE on 08.08.2025 for 01.09.2025.

On 28.10.2025, last opportunity was granted to the plaintiff to file the affidavit of evidence and to lead the PE and the matter was posted for 11.11.2025. On 11.11.2025, counsel for the plaintiff submits that the plaintiff is returning to India on 14.11.2025 and requested the matter to be posted for plaintiff evidence for 17.11.2025. Thereafter, the Local Commissioner was appointed by this court for recording the evidence and the parties were directed to appear before the Local Commissioner for PE on 17.11.2025. However, on 01.12.2025 present application dated 17.11.2025 was filed for recording of cross examination through VC. The LC report was filed on 12.01.2026.

As per LC report, the affidavit of evidence of PW1 was filed on 17.11.2025 i.e. date fixed by this court. This suggests that the plaintiff has not supplied the advance copy to the defendants in terms of the order, thereafter the LC posted the matter for cross examination of PW1 on 18.11.2025. The part cross examination of PW1 was conducted on 20.11.2025 and the matter was fixed for further cross examination. The Ld. LC vide order dated 06.12.2025 recorded that despite opportunity, the plaintiff did not lead the evidence on 01.12.2025 and 06.12.2025 and the plaintiff has left India, therefore his right to lead further evidence is closed. Then the evidence of defendant is recorded.

Perusal of the proceedings before this court and before the Ld. LC suggests sufficient opportunities have been granted to the plaintiff for evidence, however the plaintiff had not concluded the evidence and left India without seeking permission from this court or the Ld. LC.

In this background, no ground made out to give further opportunity to the plaintiff for cross examination through VC, hence the present application is dismissed and disposed off accordingly.

(Ajay Kumar Jain)
District Judge (Commercial Court)
(Digital-04)/South/Saket/ND/25.03.2026