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

+ **CM(M) 2398/2025**

M/S TIRUPATI BUILDING AND OFFICES PVT LTD

.....Petitioner

Through: Mr. Samar Bansal, Mr. Vijay Kasana,
Mr. Abhishek Khandelwal and Mr.
Vishal, Advocates.

versus

RAJNI OBEROI

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

% **10.12.2025**

CM APPL. 78088/2025 & CM APPL. 78089/2025 (exemptions)

1. Allowed, subject to all just exceptions.

CM APPL. 78090/2025 (condonation of delay of 34 days in re-filing)

2. For the reasons mentioned therein, the application is allowed and delay in re-filing the petition after removal of defects is condoned.

CM(M) 2398/2025 & CM APPL. 78087/2025 (stay)

3. Petitioner/defendant has assailed orders dated 28.07.2025 and 20.08.2025 of the learned trial court.

4. It appears that at the stage of cross-examination of PW1, the petitioner/defendant was proceeded *ex-parte*. Subsequently, additional chief affidavit of PW1 was filed and at that stage, the petitioner/defendant joined back the proceedings. Vide order dated 28.07.2025, the learned trial court



observed that although where the defendant rejoins the proceedings mid-stream, he need not get the *ex-parte* order set aside and can participate in the further proceedings, but in the present case, the petitioner/defendant cannot be allowed to cross-examine PW1 on the basis of the originally filed chief examination affidavit. The learned trial court also expressed doubts whether even on additional chief affidavit the petitioner/defendant could be allowed to cross-examine PW1. Thereafter, vide order dated 20.08.2025, the learned trial court took a view that since right to cross-examine had already been closed, the petitioner/defendant cannot be allowed to cross-examine PW1.

5. Learned counsel for petitioner/defendant contends that the impugned order is not sustainable. However, he also fairly takes me through order dated 20.03.2018 of the trial court, whereby on account of repeated defaults in appearance of the petitioner/defendant coupled with non-payment of cost, right to further cross-examine PW1 was closed.

6. Since on account of non-payment of cost, right to cross-examine PW1 was closed vide order dated 20.03.2018, which order was not challenged, the learned trial court passed the impugned orders.

7. Learned counsel for petitioner/defendant submits that on 20.08.2025, the trial court ought to have waited for the main counsel instead of passing the impugned order in the presence of proxy counsel.

8. Subject to petitioner taking steps within one week, notice through all modes be issued to the respondent, returnable on 03.03.2026 in Advance List.

GIRISH KATHPALIA, J

DECEMBER 10, 2025/ry