

Delhi High Court**Mohd Abid vs Sahiba Kosar Qureshi on 8 September, 2025**

\$~92

HIGH COURT OF DELHI AT NEW DELHI

%

of Decision: 08.09.2025
CM APPL. 49294/2025 & 49293/2025
ABID

* IN THE

Date

+ CM(M) 1496/2025,
MOHD

.....Petitioner
Through: Mr. Nasir

Aziz and Mr. Baasir Aziz,

Advocates.

versus

SAHIBA KOSAR

QURESHI

.....Respondent
Through: Mr.

Rakesh Kumar, Advocate

(through

videoconferencing).

CORAM: JUSTICE GIRISH KATHPALIA

J U D G

M E N T (ORAL)

1. Petitioner has assailed order dated 09.07.2025 of the learned trial court, whereby cross-examination of PW-1 was closed.

2. It is contended by learned counsel for petitioner that having been ill, he had sent an adjournment request in advance to counsel for plaintiff (present respondent), so cross examination of PW1 ought not to have been closed. On being pointed out that there were multiple signatories to the vakalatnama, and one of the signatory counsel was present in court who ought to have carried out the cross-examination, learned counsel for petitioner states that the counsel present was not granted time to prepare the CM(M) 1496/2025 Page 1 of 3 pages GIRISH DN: c=IN, o=HIGH COURT OF DELHI, 2.5.4.20=8401dd889b27a77b2f65ffffe4afec45569af3962c6fb48 35d435f97626cacca, ou=HIGH COURT OF DELHI,CID - 7047638, KATHPALIA postalCode=110003, st=Delhi, serialNumber=d3e86796451ec45c07b5d15570996b40f80cbd2 eee60402c487965ff801e26fa, cn=GIRISH KATHPALIA brief, though to that effect, there is no mention in the impugned order.

3. Learned counsel for respondent appearing on advance intimation accepts notice and submits that in the interest of expeditious disposal of the suit, he has no objection if this petition is allowed subject to appropriate terms, otherwise the witness PW-1 has already been cross-examined extensively and even the medical documents filed by learned counsel for petitioner with this petition to show his illness are quite stale and not pertaining to the period in question. At this stage, learned counsel for petitioner submits that the medical documents filed with the petition would show his earlier illness but as regards illness on 09.07.2025, he has no medical record.

4. Thence, it not being in dispute that one of the counsel signatory to the vakalatnama of the petitioner was present before the trial court, failure to conclude the already extensive cross-examination of PW1, who is a wheelchair bound lady, was not justifiable. I find no error in the impugned order, more so because in the impugned order, there is not even a

whisper of request from the counsel for petitioner present before the trial court to give him some time to prepare the brief.

5. But going by the cardinal principle of justice that disputes should be decided on merits and not on defaults, and also keeping in mind no serious objection from the other side, the present petition and the accompanying applications are disposed of granting one and only one opportunity to the petitioner to conclude cross-examination of petitioner on the next date (to be CM(M) 1496/2025 Page 2 of 3 pages GIRISH Digitally signed by GIRISH KATHPALIA DN: c=IN, o=HIGH COURT OF DELHI, 2.5.4.20=8401dd889b27a77b2f65ffffe4afec45569af3962c6fb4835d435f97626cacca, ou=HIGH COURT OF DELHI,CID - 7047638, KATHPALIA postalCode=110003, st=Delhi, serialNumber=d3e86796451ec45c07b5d15570996b40f80cbd2ee60402c487965ff801e26fa, cn=GIRISH KATHPALIA Date: 2025.09.08 18:11:44 -07'00' fixed by the learned trial court on the date already fixed) subject to the petitioner paying in advance through counsel for respondent cost of Rs.50,000/- to PW-1 by way of a demand draft in her name.

5.1 It is made clear that the quantum of cost has been fixed keeping in mind the above circumstances and that PW-1 is a wheelchair-bound lady.

5.2 The said cost shall be paid on the date already fixed before the trial court, i.e., 10.09.2025, after which the learned trial court shall fix the date of recording concluding part of cross-examination of PW-1.

5.3 It is also made clear that if the cost is not paid on 10.09.2025, no opportunity shall be granted to cross examine PW-1.

GIRISH DN: c=IN, o=HIGH COURT OF DELHI, 2.5.4.20=8401dd889b27a77b2f65ffffe4afec45569af3962c6fb4835d435f97626cacca, ou=HIGH COURT OF DELHI,CID - 7047638, KATHPALIA postalCode=110003, st=Delhi, serialNumber=d3e86796451ec45c07b5d15570996b40f80cbd2ee60402c487965ff801e26 fa, cn=GIRISH KATHPALIA Date: 2025.09.08 18:11:58 -07'00' GIRISH KATHPALIA (JUDGE) SEPTEMBER 08, 2025/dr CM(M) 1496/2025
Page 3 of 3 pages

Disclaimer: These contents are provided for informational/educational purposes only and are not official court-certified copies. For any legal or official use, please refer to certified records from the concerned court.

By downloading and using these documents, you agree that the platform, its developers, and publishers shall not be held responsible for any loss, claim, or consequence arising from the use of such content.