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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 420/2016 & C.M. Nos.15991/2016 & 17427/2016

GURVINDER KAUR & ANR

..... Petitioners

Through Mr. Sunil Kumar, Adv.

versus

SDMC & ORS

..... Respondents

Through Mr. Santosh Kumar Tripathi, ASC for
R-1.

Ms.Mansi Bajaj, Adv for R-2.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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09.05.2016

The order-sheets in terms of the last direction have been placed on record. Record shows that the evidence of the plaintiff stood closed on 05.11.2015. Matter was listed for defence evidence for 28.11.2015.. On 28.11.2015, the Presiding Officer was on leave and the matter was posted on 13.01.2016. On 13.01.2016 and again on the following date i.e. on 09.02.2016, the evidence by way of affidavit of the present petitioners (defendants No. 4 & 5) was not on record. The Trial Court in the impugned order dated 18.03.2016 has noted that the adjournments had been sought by the petitioners (defendants No. 4 & 5) for the reason that their counsel was busy in the High Court; this was the same excuse on both the dates. Learned counsel for the petitioners submits that on 18.03.2016, the personal case of the counsel for the petitioner was listed in the High Court and that was

the reason why he could not appear.

Record shows that the present suit is a suit for permanent and mandatory injunction. The witnesses to be examined on behalf of defendants No. 4 & 5 would be two witnesses. Learned counsel for the petitioner submits that his valuable right would be lost in case he is not allowed to produce his evidence in defence. The petitioner can be compensated with costs. Submission being that the parties are in fact living in the same premises and sharing the same building.

Noting the above factual matrix as also the submission of the learned counsel for the petitioner that he be granted one last opportunity to lead his evidence in defence, subject to payment of Rs.10,000/- as cost, the impugned order is modified. Evidence by way of affidavit of the two witnesses of the petitioner (defendants No. 4 & 5) shall be filed with a period of two weeks with advance copy to the learned counsel for the plaintiff. The said witnesses shall also be produced in Court on the next date for their cross-examination. No unnecessary adjournment shall be granted by the Trial Court.

Petition disposed of.

Order be given dasti under signatures of the Court Master.

INDERMEET KAUR, J

MAY 09, 2016

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