

\$~A-39

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

+ CM(M) 794/2016

**MAHENDRA GUPTA @ MAHENDER KUMAR
GUPTA & ORS**

..... Petitioner

Through Mr.Mohan Lal Sharma, Mr.Varun
Nischal, Ms.Vidhi Kumar, Mr.Ashish Bhardwaj
and Ms.Nisha Sharma, Advs.

versus

SHAHID BHAI & ANR

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

%

19.08.2016

1. By the present petition the petitioner seeks to impugn the order dated 8.4.2016 by which the application filed by the petitioner for setting aside the order dated 27.11.2014 closing the plaintiff's evidence was dismissed.
2. A perusal of the impugned order shows that the trial court has noted that the matter has been pending for plaintiff's evidence since 22.3.2013. The matter was also referred to the Mediation Cell on 1.4.2014 and it was reported that there is no possibility of mediation. One last opportunity was granted to the petitioner to lead evidence keeping in mind that the matter is of 2001. Despite last opportunity granted, the petitioner had sought two adjournments. Accordingly, the plaintiff's evidence was closed on 27.11.2014. The present application filed thereafter to recall the said order dated 27.11.2014 was also dismissed keeping in view the negligent attitude

of the petitioner.

3. Learned counsel for the petitioner submits that the plaintiff/petitioners are all senior citizens above 80 years of age. He relies upon his application under Section 151 CPC filed before the trial court where it is pleaded that the petitioners are all senior citizens and could not get together for giving appropriate instructions to the counsel and hence adjournments were sought previously. He seeks one last opportunity to complete his evidence. He also submits that there is only one witness to be examined whose evidence byway of affidavit is already on record.

4. Keeping in view the age of the petitioners, in my view, the court should take a more liberal view of the delay. Accordingly one last opportunity is granted to the petitioner to lead his evidence. The impugned order is set aside granting one last opportunity to the petitioner. Petitioner will ensure presence of the witnesses on the date fixed by the trial court for examination/cross-examination. No adjournment on any ground will be granted by the trial court to the petitioner for completing his evidence.

5. Petition stands disposed of. All pending applications, if any, also stand disposed of accordingly.

6. Dasti.

JAYANT NATH, J

AUGUST 19, 2016

n