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

+ **CM(M) 985/2016**

JASPAL SINGH & ORS Petitioners
Through Mr.Rajendra Dutt, Advocate.

versus

NORTH DELHI MUNICIPAL
CORPORATION OF DELHI & ORS Respondents
Through Mr.Mukesh Gupta, Advocate for R-1.
Mr.D.K.Singh and Mr.Arun Birbal, Advocates for
DDA.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **28.09.2016**

CM No. 35953/2016 (exemption)

Exemption is allowed subject to all just exceptions.

CM(M) 985/2016 and CM No. 35952/2016 (stay)

1. By the present petition, the petitioners seek to impugn the order dated 22.08.2016 by which on an application moved by the petitioners under Order 17 Rule 2 CPC, the right of the petitioners to lead evidence was closed. The trial court noted that the suit is pending for more than 20 years having been filed in 1995. Issues were framed on 08.10.2013. On a particular date, the counsel for both the parties were not even aware of the stage of the case. No evidence was also produced by the petitioners/plaintiffs on 08.05.2016, 09.06.2016 and 08.08.2016. Hence, the trial court concluded that no further opportunities are justified and closed the

evidence of the plaintiffs/petitioners.

2. Learned counsel appearing for respondents No.1 and 3 have strongly opposed the present petition pointing out that the petitioners have been repeatedly indulging in dilatory tactics.

3. The present suit is filed for perpetual injunction to restrain the defendants from demolishing any part or portion of the property situated in Mohindra Park, Delhi.

4. Keeping in view the nature of the suit filed, it would be in the interest of justice that one final opportunity is granted to the petitioners to lead evidence subject to payment of cost of Rs.10,000/- to be equally shared by the defendants.

5. Learned counsel appearing for the petitioners has submitted that the affidavit by way of evidence of the petitioners/plaintiffs is already on record and he only wishes to summon one person, namely, the concerned clerk of the land acquisition office. He also submits that the list of witnesses has been filed by the plaintiffs and this witness is on the said list. The trial court may fix only one date for cross-examination of the plaintiffs' witness whose affidavit by way of evidence is on record. The trial court may also fix only one date on which the concerned official, provided his name finds mentioned in the list of witnesses filed by the plaintiffs, will be summoned for plaintiff's evidence/examination/cross-examination. No adjournment would be granted to the petitioners on the date for the petitioners' evidence.

6. In view of the above, the present petition stands disposed of.

7. Copy of the order be given Dasti under the signatures of the Court Master.

SEPTEMBER 28, 2016/rb

JAYANT NATH, J