

\$~17

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

+ CM(M) 172/2016 & CM Nos.6144-45/2017

PUSHPA

..... Petitioner

Through Mr.Amit Mahajan & Ms.Sumita
Misra, Advocates

versus

RAJNEES MALIK @ PINKI CHAUDHARY & ORS... Respondents

Through Mr.G.K.Chauhan, Advocate for R-3

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **02.02.2017**

1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seeks to challenge the order dated 28.10.2016 by which the trial court closed the evidence of the petitioner/plaintiff.
2. The learned counsel appearing for the petitioner submits that purely on mercy he seeks examination of three witnesses. He points out that the suit is filed by the petitioner for declaration, possession and mandatory injunction regarding a plot measuring 100 sq.yds. Khasra Nos.12 and 13, Plot No.17 situated at Kamal Vihar, Burari, Delhi. He submits that it is the suit of the petitioner which is getting delayed by this request and in any case the petitioner is not in possession of the suit property. Hence, no prejudice is caused to the respondent if this petition is allowed. He further submits that a list of witnesses has been filed before this court. Though list of witnesses contains several names, he only wishes to examine three witnesses, namely

Sh.Dharambir Yadav, mentioned at serial No.2 of the list, Sh.Toraib Ali, mentioned at serial No.6 and Sh.Shiv Kumar, mentioned at serial No.7.

3. I have heard the learned counsel for the parties.

4. In the interest of justice and subject to payment of cost of Rs.5,000/- the petition is allowed and the petitioner is granted last opportunity to examine three witnesses mentioned above. It is made clear that no adjournments would be sought by the petitioner on the date so fixed by the trial court for the evidence of the petitioner.

5. At this stage, the learned counsel appearing for the respondents submits that they have also closed their evidence without leading any evidence. Hence, in case the petitioner leads any evidence as per this order, the respondents shall also be given an opportunity to lead their evidence before the trial court.

JAYANT NATH, J.

FEBRUARY 02, 2017/v