

\$~A-28

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

+ CM(M) 108/2017

BHARAT BHUSHAN ANAND ..... Petitioner  
Through Mr.M.Z.Chaudhary, Advocate

versus

RAGHUBIR ANAND (SINCE DECEASED) THR LRS ..... Respondent  
Through

**CORAM:**  
**HON'BLE MR. JUSTICE JAYANT NATH**

**ORDER**

% 14.02.2017

**CM No.3689/2017 (Exemption)**

Exemption allowed, subject to all just exceptions.

**CM(M) 108/2017 & CM No.3595/2017**

1. By the present petition under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 3.7.2016 by which the right of the petitioner/defendant No.1 to lead evidence was closed and the order dated 21.11.2016 dismissing the application of the petitioner under section 151 CPC for recall of the said order dated 3.7.2016. Learned counsel appearing for the petitioner submits that the delay has taken place as an attempt was being made to settle the matter between the parties. He submits that this is a litigation pending between brothers and the suit is for partition. He points out that after the evidence of the petitioner was closed on 3.7.2015, as is evident from the ordersheets, the trial court in its order dated 18.8.2015 noted that there is an attempt to settle the matter. Subsequently,

the matter was referred to the District Court Mediation Centre for attempting a settlement between the brothers. On 23.3.2016 the trial court recorded that a settlement has not been arrived at between the parties. Hence, the petitioner on 19.8.2016 moved the application under section 151 CPC for recall of the order dated 13.7.2015. He submits that the delay was for bona fide reasons and that it took place as the parties were trying to settle the matter. He seeks one last opportunity to lead the evidence of petitioner/defendant No.1.

2. Advance copy of the petition has already been sent to the respondent. However, none is present for the respondent.

3. Keeping in view the averments of the learned counsel appearing for the petitioner and also noting that the trial court had referred the parties to mediation on 21.11.2015, it is in the interest of justice that a final opportunity is granted to the petitioner to lead his evidence subject to payment of costs of Rs.5,000/-. Ordered accordingly.

4. Present petition is disposed of as allowed. All pending applications, if any, also stand disposed of.

**JAYANT NATH, J**

**FEBRUARY 14, 2017**

n