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

+ CM(M) 375/2017 and CM Nos. 13459-61/2017

VIMI BHATIA & ANR Petitioners
Through Mr. Pankaj Agarwal and Mr. Pinky
Agarwal, Advocates

versus

YOGESH BHATIA Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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11.04.2017

1. By the present petition filed under Article 227 of the Constitution of India, the petitioners seek to impugn the order dated 03.03.2017 by which order the right to cross-examine PW2-Sh. Yogesh Bhatia was declined
2. Despite advance copy having been sent by speed post to the respondent, the respondent has chosen not to appear.
3. A perusal of the record would show that the issues were framed when the matter was pending before this court for adjudication on 18.11.2014. PW1-SH. P.L. Bhatia was cross-examined and discharged on 02.03.2017. On that date the counsel for the petitioners was also asked to cross-examine PW2-Sh. Yogesh Bhatia who was present. However, the counsel for the petitioners/defendants pleaded that he is not prepared for cross-examination. The matter was put on the very next date i.e. 03.03.2017. On that date, it was

stated that the counsel for the petitioners was held up in another court and a pass over was sought which was declined and the right of the petitioners to cross-examine PW-2 was closed.

4. The suit was filed by the respondent/plaintiff for possession, mesne profits and permanent injunction. The plaintiff/respondent is the step son of petitioner No.1 and step brother of petitioner No.2.

5. Keeping in view the above facts and circumstances, it is clear that the closure of the right of the petitioners to cross-examine PW-2 would cause irreparable injury. There is no ground to conclude about a motive to delay the proceedings.

6. Accordingly, I set aside the order dated 03.03.2017 subject to payment of costs of Rs.5,000/-. On the date to be fixed by the trial court for cross-examination of PW-2, no adjournment shall be sought by the petitioners.

7. In view of the above, the petition stands disposed of.

8. All pending applications also stand disposed of.

9. Copy of the order be given dasti under the signatures of the Court Master.

JAYANT NATH, J

APRIL 11, 2017

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