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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 + CM(M) 1171/2016 & CM No.42600/2016
 DELHI PINJRA POLE SOCIETY (REGD) Petitioner
 versus
 GOVIND RAM SHARMA Respondent
 + CM(M) 1173/2016 & CM No.42606/2016
 DELHI PINJRA POLE SOCIETY (REGD) Petitioner
 versus
 SUMAN LATA Respondent
 Present: Mr.Gaurav Barathi, Advocate for the petitioner.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **02.02.2017**

1. By these petitions filed under Article 227 of the Constitution of India, the petitioner seeks to impugn the order dated 29.08.2016 by which his right to lead evidence was closed.
2. The petitioner has filed the suit for permanent and mandatory injunction. On 29.08.2016 the trial court noted the submission of the officer of the petitioner that the counsel is busy in some other court and the witness is also not present. Noting that a number of opportunities have been given to the petitioner to complete evidence, the trial court closed the plaintiff's evidence.
3. The petitioner, thereafter moved an application under Order 18 Rule 17 CPC. Though the application is under Order 18 Rule 17 CPC, essentially it seeks to recall the order dated 29.11.2016 and to seek permission to lead evidence.
4. The trial court, however dismissed the said application on 06.10.2016

holding that there are no reasonable grounds for not having appeared on 29.08.2016 when his right to lead evidence was closed. Issues were framed on 23.11.2012. Despite ample opportunities, the petitioner had not led his evidence.

5. I have heard the learned counsel for the petitioner.

6. An advance copy of the petition has been sent to the respondent but none is present on their behalf.

7. The case of the petitioner is that on 29.08.2016 when the matter was fixed, other matters of the petitioner were listed in another court and the counsel and witness were held up in the said other court. Necessary order sheets in this regard are placed on record. The learned counsel also has submitted that the delay in completing the evidence is not on the part of the petitioner as certain appeals were pending before this court against some of the interim orders passed by the trial court which delayed purpose of the case.

8. In view of the above, it is clear that there was sufficient reason for non-appearance of the petitioner and the witness on 29.08.2016.

9. In the interest of justice, subject to payment of cost of Rs.3,000/-, the present petition is allowed and a last opportunity is granted to the petitioner to complete his evidence. It is made clear that no adjournment would be granted to the petitioner on the date so fixed by the trial court.

10. All the pending applications are also disposed of.



JAYANT NATH, J.

FEBRUARY 02, 2017/v