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

+ **CM(M) 79/2018 & CM APPLs. 2193-2195/2018**

BHUPINDER SINGH (DECEASED) THR LRS Petitioners

Through: Mr. Rajat Wadhwa and Mr. Ravitanay
Singh, Advocates.

versus

KULDEEP SINGH

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **19.01.2018**

The petitioners are the plaintiffs of the Civil Suit (CS No.11349/2016), the relief claimed therein, as submitted by the counsel, being in the nature of decree of possession and *mesne* profits. The petitioners as plaintiffs had concluded their evidence on 14th May, 2015. The case thereafter had reached the stage of evidence of the defendants i.e. the respondents herein on 24th July, 2015. Since the opportunity granted was not availed, the Trial Court Judge closed the said right but on Civil Revision Petition No.160/2016, this Court allowed '*one final opportunity*' by order dated 26th September, 2016. It appears more than one adjournment was taken but no evidence was led even though, as per the submissions made at the hearing on the revision petition referred to earlier, the defendant

was to examine only himself besides a record clerk from North Delhi Municipal Corporation whose presence necessarily had to be compelled by summons. The right was again closed by the Additional District Judge by order dated 5th September, 2017 but on application of the respondents seeking review, the opportunity was revived by the impugned order dated 12th December, 2017.

The petitioners take exception to the afore-said reopening of the opportunity for defendant's evidence, the arguments being that the proceedings are getting protracted.

Having heard the learned counsel for the petitioners and having gone through the record, this Court is inclined only to observe that the learned Additional District Judge will have to exercise effective control over the proceedings to ensure that the same do not get protracted. The directions in the order dated 26th September, 2016 on Civil Revision Petition No.160/2016 granting '*one final opportunity*' are expected to be followed in letter and spirit. But, given the fact that certain events had supervened, reference may be made to the fact that one of the parties died during the intervening period, and the fact that the learned Trial Judge has exercised judicial discretion vested in him in allowing one more opportunity, this Court refrains from interfering at this stage.

The case is listed before the Trial Court for defendant's evidence on 22nd January, 2018. The Trial Judge hopefully would ensure that the evidence is recorded on the said date and in case of any further default, pass the necessary directions. The petitioners will have the liberty to raise objections, if any further request for enlargement of opportunity is made.

With these observations, the proceedings at this stage are closed.

The learned counsel for the petitioner is called upon to serve a copy of this order on the learned counsel for the respondent forthwith.

Copy of this order be given *dasti* under the signature of Court Master.

R.K.GAUBA, J.

JANUARY 19, 2018

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