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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 1256/2016

GURVACHAN KAUR & ANR

..... Petitioners

Through: Mr. Pranay Jain with Mr. Ajay Singh
& Mr. Chirag Aneja, Advocates.

versus

STATION COMMANDANT & ORS

..... Respondents

Through: Mr. Rakesh Kumar, CGSC for R-1
& 2.

Mr. Sanjay Kumar Pathak with
Mr. Sunil Kumar Jha, Advocates for
R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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16.02.2018

1. The petitioners are the plaintiffs of civil suit (Suit No. 864/14) in which the respondents are defendants, the prayer in the suit being for decree in the nature of declaration and injunction – prohibitory and mandatory – qua a parcel of land in which the petitioners claim to be the owner.

2. The suit is contested by the respondents on the ground that it is a government land on which the plaintiffs are encroachers. Issues were framed on 20.03.2012 whereafter the plaintiffs/petitioners were called upon to lead evidence. No evidence was led in spite of several opportunities. The opportunity was closed by order dated 08.10.2015 but revived on application moved by the petitioners under Section 151

of Code of Civil Procedure, 1908 (CPC). Eventually, the case came up before the Court on 08.04.2016 when again there was no effort to examine any witness, the counsel casually making a prayer that he would move an appropriate application to have certain witnesses summoned. No list of witnesses has been submitted. The civil judge, thus, declined to enlarge the opportunity and closed the evidence of the plaintiff by his order dated 08.04.2016. A review of the said order by another application under Section 151 CPC was sought which was dismissed by order dated 06.08.2016. It is the said order which is under challenge through the petition at hand.

3. The petition was brought on 05.12.2016 but there has been utter negligence in its prosecution. On 23.05.2017, direction was given to the petitioners to place on record copies of the order-sheets of the trial court after settlement of issues. The said order has not been complied with.

4. In the above facts and circumstances, there being no explanation for opportunity earlier granted not having been availed, there is no error or infirmity in the view taken by the trial court. The petition is dismissed.

R.K.GAUBA, J

FEBRUARY 16, 2018

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