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

+ CM(M) 1501/2018 & CM APPL. 51426-51427/2018

MAHARAJ JAGAT SINGH MEDICAL RELIEF SOCIETY

..... Petitioner

Through: Mr. Pramod Kr. Ahuja, Adv.

versus

SURINDER SINGH (SINCE DECEASED) THR LRS & ORS

..... Respondent

Through: Ms. Divya Bhalla, Adv. for R-1 to 3.
Mr. HS Sharma, Adv. for R-4.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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19.12.2018

Vide the present petition, the petitioner assails the impugned order dated 28.11.2018 of the learned ADJ-13, Central in CS No.17168/2016 whereby the right of the defendant no.2 who is the petitioner to the present petition to lead defendant evidence was apparently closed in as much as the submissions have been made on behalf of the defendant no.2 that since it was defendant no.1 who was leading evidence, there was no defence witness of the defendant no.2 present on the date 28.11.2018 with it having been observed by the learned trial Court to the effect that there was no order on the record that the defendant no.2 would not start defendant evidence till the time evidence of the defendant no.1 was completed with it having been observed that the said contention raised was not sustainable.

On behalf of the respondent nos.1, 2 & 3, the legal heirs of the deceased/plaintiff substituted in the said suit, it is submitted that there is no opposition to the prayer made in the petition that an opportunity be given to the defendant no.2 to lead evidence. To similar effect is the submission made on behalf of the respondent no.4 i.e. the defendant no.1 in the said suit. In reply to a specific Court query it was submitted on behalf of the defendant no.1 of the said suit arrayed as the respondent no.4 to the present petition that the defendant no.1 is not seeking to lead any evidence.

It has been submitted on behalf of the petitioner that the matter was never fixed for the defendant no.2's evidence. Apparently, proceedings dated 28.11.2018 of the ADJ-13, Central in CS No.17168/2016 also reflect that the evidence of defendant no.1 had not concluded. Taking the same into account, the impugned order dated 28.11.2018 to the extent that no opportunity has been granted to the defendant no.2 i.e. the present petitioner herein to lead evidence is set aside. The defendant no.2 is thus granted an opportunity to lead evidence in defence before the learned trial Court within the time-frame to be stipulated by the learned trial Court.

The petition is disposed of.

Copy of the order be given Dasti under the signatures of the Court Master, as prayed

ANU MALHOTRA, J

DECEMBER 19, 2018/vm