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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1452/2017 and CM No.46564/2017 (Stay)

GYANO DEVI & ORS Petitioners
Through: Mr.Madhu Sudan Bhayana, Advocate

versus

BIJENDER @ BULI & ORS Respondents
Through: Mr.R.S.Lathwal, Advocate

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **19.07.2018**

Learned counsel for the respondents No.1 to 4 submits that though a copy of the petition has not been received, the learned counsel for the respondents is aware of the proceedings in the matter.

Submissions have been made on behalf of either side.

Vide the present petition, the petitioner assails the impugned order dated 8.11.2017 in CS 345/2014 of the learned Trial Court of the Additional District Judge-03 (North-West) whereby an application under Section 151 CPC filed by the plaintiffs qua petitioner Nos. 1 to 4 seeking the recalling of order dated 9.10.2017 summoning the official witnesses as per the list of witnesses, was declined in view of the several opportunities granted as specified in the impugned order dated 8.11.2017 to the tune of atleast eight opportunities granted previously.

On behalf of the respondents learned counsel for the respondents submits that subject to imposition of heavy costs the

prayer made by the petitioners may be allowed.

Learned counsel for the petitioner submits that as per the list of witnesses dated 1.10.2014, placed on record of the learned Trial Court, the witnesses stated to be produced by the petitioner at serial No. 3 to 5 of the list of witnesses are to the effect:

“3. B.D.O., Alupu, B.D. O Office Complex, Alipur, Delhi-110036 along with the records of Resolution of Gaon Sabha Khera Kalan, for the year 1975-76 for the allotment of Residential plots to the landless persons and the records of list of 268 allottees in the year 1975-76.

4. Officer concerned from the Department of Minor Irrigation Department, Govt. of NCT of Delhi, Kashmere Gate, Delhi-110006 along with the site of the residential plots allotted by the Gaon Sabha Khera Kalan, Delhi in the year 1975-76.

5. Officer concerned/Panchayat Secretary/Halq patwai, B.D.O. Office, Alipur, Delhi along with the list of survey conducted in the year 2000 by the S.D.M.. Narela, Delhi in respect of the existence of the residential plots allotted under 20 POINT PROGRAMME in the year 1975-76 by the Gaon Sabha, Khera Kalan, Delhi-110082.

in support of the contentions of the petitioners in the suit, i.e. CS No.345/14 qua their claims in relation to the property in question.

It has also been submitted on behalf of the petitioners that the petitioners have been ousted from the property in question till the suit forming subject matter of the suit forcibly and in the interest of justice an opportunity be granted to the petitioners to produce the witnesses at serial Nos. 3 to 5 of the list of witnesses dated 1.10.2014 submitted before the learned Trial Court.

In view thereof, in the interest of justice only one opportunity is

granted for production of these official witnesses to the petitioners for the date of recording of evidence that may be fixed by the learned Trial Court on the date 21.7.2018, the date of proceedings stated to be fixed before the learned Trial Court qua which process in relation to the three official witnesses at serial No. 3,4 and 5, as detailed herein above as per the list of witnesses dated 1.10.2014 is allowed to be issued, only subject to payment of costs of Rs.50,000/- by the petitioners to the respondents on 21.7.2018 before the learned Trial Court. The prayer made seeking reduction of costs is declined.

With these observations, the petition is disposed of.

ANU MALHOTRA, J

JULY 19, 2018/sv