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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 59/2019
PRABHAKAR POKHRIYAL Petitioner
Through: Mr. Jatin Mongia & Ms. Mayanka
Dhawan, Advocates.

versus

SURENDRA SINGH CHEEMA & ANR Respondents
Through: Mr. Gurman Chahal, Advocate.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA
ORDER
% **04.02.2019**

CM APPL. 5296/2019 In CM(M)-59/2019

The matter is fixed for 26.02.2019 and is taken up on CM APPL. No.5296/2019, an application filed on behalf of the respondent nos. 1 & 2 seeking preponement of the date of hearing qua the petition. Since the petitioner is represented, the application is allowed and the matter has been taken up for consideration.

Vide the present petition, the petitioner has assailed the impugned order dated 01.08.2018 of the learned Trial Court of ASCJ-cum-JSCC-cum-GJ (South) in CS no.451/17 vide which an application under Order XVIII Rule 17 of the CPC filed by the petitioner i.e. the defendant to the said suit seeking recalling of PW1 for the cross-examination which cross-examination had been closed on 24.05.2018 had been declined.

It has been submitted on behalf of the respondent nos.1 & 2 that

they have no opposition to the cross-examination of PW-1 being conducted by the defendant i.e. the petitioner herein to seek that the proceedings before the learned Trial Court be directed to be taken up expeditiously inasmuch as the respondent nos.1 & 2 are senior citizens with it being sought that the matter be directed to be preponed by the learned Trial Court.

In view of the submissions that have been made on behalf of the respondent nos.1 & 2 who do not oppose the prayer made by the present petitioner, the impugned order dated 01.08.2018 and order dated 24.05.2018 are set aside and one single opportunity is granted to the petitioner to cross-examine the witness PW1 on the date fixed by the learned Trial Court. As regards the submissions that have been made on behalf of the respondent nos. 1 & 2 that the date of hearing be preponed to the date prior to 07.03.2019, the prayer may be made by the respondent nos. 1 & 2 before the learned Trial Court on the date 15.02.2019 at 2.30 PM.

The date 26.02.2019 is cancelled.

The petition is disposed of accordingly.

Copy of the order be given Dasti under the signatures of the Court Master.

ANU MALHOTRA, J

FEBRUARY 04, 2019/NC