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

+ **CM (M) 3/2020**

ANURAG ASHWANI Petitioner
Through: Mr. Arpit Bhalla, Advocate.
(M:9999681810)
versus

AJAY ASHWANI Respondent
Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **07.01.2020**

CM APPL. 97/2020 (exemption)

1. Allowed, subject to all just exceptions. Application is disposed of.

CM (M) 3/2020 & CM APPL. 96/2020 (stay)

2. The advance copy of the petition has been served upon the Respondent. However, there is no appearance. The matter was initially passed over. Ld. counsel for the Petitioner submits that he contacted the ld. counsel for the Respondent in the Trial Court, who however, informed that he has no instructions to appear today in this matter.

3. The present petition challenges the impugned orders dated 8th August, 2019 and 23rd November, 2019. It is submitted by ld. counsel for the Petitioner/Defendant No.1 that on 8th August, 2019 the matter was listed for Defendants' Evidence and three affidavits in evidence were also filed by the Defendants. However, due to illness of the Petitioner/Defendant No.1, who is the main Defendant in the matter, the witness was not present and on the said date, the Trial Court closed the right of the Defendants to lead evidence.

4. From a perusal of the orders dated 8th August, 2019 and 23rd November 2019, it is seen that the Defendants' intention was to lead the evidence of the main Defendant i.e. Defendant No.1 first and thereafter, the other witnesses. Since the affidavits in evidence were already on record, it cannot be said that the Defendants intended to delay the matter. In any event, the illness of Defendant No.1 was a sufficient ground to give one further opportunity to lead the Defendants' Evidence. Accordingly, subject to payment of costs of Rs.10,000/- to the Respondent, the Defendants are permitted to lead their evidence. No adjournment shall be sought before the Trial Court. The costs shall be paid by the Petitioner/Defendant No.1 on the next date before the Trial Court.

5. The petition along with the pending application is disposed of.

PRATHIBA M. SINGH, J.

JANUARY 07, 2020/dk