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

+ **CM (M) 191/2020 & CM APPLs. 6291-92/2020**

AMRIT PAL KAUR & ORS

..... Petitioners

Through: Mr. Harshbir Singh Kohli, Advocate
(M-9810658944)

versus

M/S COTTAGE INDUSTRIES EXPOSITION PVT
LTD

..... Respondent

Through: Ms. Kirti Mewar, Advocate (M-
7204073750)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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17.02.2020

1. The contention of the Petitioners/Plaintiffs (*hereinafter*, “*Plaintiffs*”) is that vide the impugned order dated 1st November, 2019, the Trial Court has permitted the Respondent/Defendant (*hereinafter*, “*Defendant*”) to lead the evidence of DW-1, 2 and 3 and has taken the list of witnesses on record, subject to payment of costs of Rs.5,000/-.
2. The suit for possession and *mesne* profits is in respect of the entire Second Floor of premises bearing no. E-15, N.D.S.E Part-II, New Delhi (*hereinafter*, “*suit property*”) and dates back to 1997. Pursuant to several rounds of litigation, possession of the suit property has already been handed back to the Plaintiffs. The only question to be determined is the question of *mesne* profits.
3. The Plaintiff’s evidence concluded on 14th May, 2019. On 27th May, 2019, final opportunity was granted to the Defendant to lead evidence in the

matter. On 15th July, 2019, as no list of witnesses was submitted nor was any affidavit in evidence filed, the Defendant's right to lead evidence was closed. Thereafter, the Defendant moved an application praying for the list of witnesses, etc. to be taken on record. This application was objected to by the Plaintiffs on the ground that it was belated. By the impugned order, the Trial Court has taken the list of witnesses on record and the Defendant has been permitted to lead the evidence of DW-1, 2 and 3. DW-1 is stated to have already been partly cross-examined by the Plaintiffs. The Plaintiffs are aggrieved by the terms on which the Defendant has been permitted to lead evidence and the fact that the Defendant continues to seek adjournments and delay the proceedings.

4. After perusing the impugned order as well as the pleadings, considering that DW-1's cross examination has already begun, this Court is of the opinion that the evidence cannot be shut out. Considering that the suit is of 1997 vintage, the trial and adjudication of the same shall be concluded within a period of six months from today. The evidence before the Trial Court shall continue. No adjournments shall be granted to the Defendant. Considering the delay that has been caused by the Defendant, the costs of Rs.5,000/- which were imposed on the Defendant are enhanced to Rs.20,000/- which shall be inclusive of the costs of Rs.5,000/- already paid.

5. The Defendant shall summon the official witness from the Municipal Corporation of Delhi on the next date fixed before the Trial Court so that no further delay is caused due to non-appearance of the witness or lack of production of relevant records. If there are any documents which are filed along with the affidavits, the objections in respect of these documents shall be recorded and dealt with at the stage of final adjudication.

6. With these observations, the petition and all pending applications are disposed of.

PRATHIBA M. SINGH, J.

FEBRUARY 17, 2020/*Rahul /C*