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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 373/2019 and CM APPL. 10021/2019**

RAKESH KUMAR Petitioner

Through: Mr. Pankaj Mehta, Ms. Shweta Soni
and Mr. Prashant Sharma, Advocates
(M: 9811253529).

versus

RAVINDER KHARBANDA & ANR Respondents

Through: Mr. Ashok Kumar Sharnia,
Advocates (M: 9811774901).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **13.01.2020**

1. The present petition has been filed challenging the impugned orders dated 17th January, 2019 and 2nd February, 2019 by which the Petitioner's/Plaintiff's evidence (*hereinafter 'Plaintiff'*) stands closed and the application seeking recall of the said order was also dismissed. Ld. counsel for the Plaintiff submits that on 17th January, 2019, the Plaintiff had to leave Delhi for a religious ceremony in *Haridwar* and he had accordingly moved an application for adjournment on 14th January, 2019 itself. However, the matter was listed on 17th January, 2019 and the Plaintiff's evidence was closed. He submits that the Plaintiff does not have any intention to delay the evidence as the same is a suit for possession and *mesne* profits filed by the Plaintiff himself.

2. Ld. counsel for the Respondent vehemently opposes the grant of any further indulgence as the Plaintiff has not been diligent since the beginning. Ld. counsel for the Respondents further submits that even the costs of Rs. 30,000/- imposed by the High Court have not been paid by the Plaintiff.

3. Considering that the suit is one seeking possession of extremely valuable property, due to such defaults, it should not be that the Plaintiff loses the right to seek possession of the same. The Plaintiff has definitely not been diligent in this matter. Accordingly, it is directed that the Plaintiff shall be given one, last and final opportunity to lead evidence subject to payment of total costs of Rs. 50,000/- to the Respondent which would be inclusive of the costs which have been already imposed on the Plaintiff. The said amount shall be paid on or before the next date in the Id. Trial Court. Upon proof of costs being filed, the Plaintiff shall file his evidence without seeking any further adjournments in the matter and shall also produce his witnesses diligently. The Id. Trial Court shall monitor the matter closely to ensure that there is no delay caused at the behest of the Plaintiff.

4. Ld. counsel for the Respondent fairly states that if there are any costs imposed by any earlier orders, on the Respondent, suitable adjustment shall be given in the costs to be paid by the Plaintiff.

5. The petition with all pending applications is disposed of in these terms.

PRATHIBA M. SINGH, J.

JANUARY 13, 2020
MR