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

+ **CM(M) 59/2018 & CM APPL. 1663/2018**

NEMAT ULLAH

..... Petitioner

Through: Mr. Ashok Gurmani, Advocate.
(M:9810109039)

versus

ABDUL GAFFAR & ORS

..... Respondents

Through: Mr. M. Salim and Mr. Sadaat Salim,
Advocates. (M:9811195036)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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15.01.2020

The present petition has been filed challenging the impugned order dated 14th December, 2017 by which the Petitioner/Defendant No.4 (*hereinafter 'Defendant No.4'*) has sought reopening of evidence. A suit for possession and damages was filed in 1991 by the Respondents/Plaintiffs (*hereinafter 'Plaintiffs'*). The suit was initially dismissed on 10th January, 2014 and thereafter, on 21st April, 2014 the matter was remanded back. Since then, the evidence is still continuing and various adjournments have been sought by the parties. The present order which is under challenge was passed when Defendant No.4 wanted to lead the evidence of two witnesses i.e., Defendant No.4 himself and one additional witness. The Court has rejected the request in view of the fact that the case is very old and several opportunities have already been granted.

In this petition vide the initial order dated 16th January, 2018 the

pronouncement of final judgment was stayed. Ld. counsel for the Defendant No.4 submits that he only needs one date on which he will produce both the witnesses and the affidavits of the said witnesses are already on record. Considering the fact that the suit is of 1991 and the matter was remanded for fresh trial, Defendant No.4 is given one last and final opportunity to lead the evidence of these two witnesses in respect of the affidavits which are already on record subject to payment of Rs.10,000/- as costs to the Plaintiffs. The matter shall be fixed on one date before the Trial Court on which date, both the witnesses shall appear and their cross-examination shall be recorded. No further opportunity shall be granted and the matter shall thereafter proceed for final hearing and final adjudication. No further orders are called for. The costs shall be handed over on the next date before the Id. Trial Court to the Plaintiffs.

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

PRATHIBA M. SINGH, J.

JANUARY 15, 2020

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