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

% Judgment delivered on: 01.02.2023

+ CM(M) 1297/2022 & CM APPL. 50973/2022

SH. PARVESH BAHRI Petitioner

versus

HARISH CHANDER BAHRI & ANR. Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Anamika Ghai Niyazi, Mr. Sandeep Khatri and Mr. Shivam Negi, Advocates.

For the Respondents : Mr. S.C. Singhal, Advocate.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. With the consent of parties, the present petition is taken up.
2. The petitioner has challenged the order dated 07.09.2022 whereby the learned Trial Court has closed the opportunity to record the evidence of PW-1, that is, Mr. Parvesh Bahri for the reason that number of opportunities were granted and yet he was not present in the Court for the said purpose.
3. Ms. Anamika Ghai Niyazi, learned counsel submits that the petitioner is a senior citizen suffering from Parkinson disease and visiting abroad for the purpose of getting treatment under the guidance of his son.

4. Mr. Singhal, learned counsel appears for the respondent and opposes the reasons stated for such prayer, however, submits that keeping in view the age and the stated medical condition of the petitioner, the respondent would not object to one opportunity being given for recording evidence of PW1.

5. In view of the aforesaid submissions, this Court is also of the opinion, keeping in view the medical condition of the petitioner as well as his age, that interests of justice would be sub-served if one opportunity is given to PW-1, Mr. Parvesh Bahri to appear before the learned Trial Court and record his evidence.

6. Accordingly, learned Trial Court shall afford an opportunity to Mr. Parvesh Bahri to appear as PW-1 and get his evidence recorded in accordance with law, however, subject to Rs. 30,000/- as costs, being paid by the petitioner to the respondent within one week from today.

7. It is informed that the matter is listed on 28.02.2023. It is also informed that the affidavit of evidence of PW-1 is already on record.

8. Learned Trial Court is directed to commence the recording of evidence on 28.02.2023, and on subsequent dates as convenient to the learned Trial Court.

9. With the aforesaid directions, the petition is disposed of.

TUSHAR RAO GEDELA, J .

FEBRUARY 1, 2023/nd