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

+ **CM(M) 1965/2024**

PRAVINDER SINGH BEDI

..... Petitioner

Through: Mr. Gaurav Arora and Mr. Vikrant
Mehta, Advs.

versus

PRABHA RAI ANF ORS

..... Respondents

Through: Mr. Murari Tiwari and Mr. Rahul
Kumar, Advs.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **26.02.2024**

CM APPL. 11436/2024—Exp.

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

CM(M) 1965/2024, CM APPL. 11435/2024—stay

3. The present petition under Article 227 of the Constitution of India has been filed assailing the orders dated 09.01.2024 and 31.08.2023 passed by the learned Additional District Judge-04, North-West district, Rohini Courts, Delhi, in CS DJ No.578847/2016 titled as “*Parvinder Singh Bedi vs. Vimal Prasad Rai & Ors.*”. The petitioner herein is the plaintiff before the learned Trial Court.
4. Issue notice.
5. Mr. Murari Tiwari, learned counsel for the respondents puts in appearance on advance notice and accepts notice.
6. It is submitted that no reply is to be filed as a short issue is involved in



the present petition is regarding the closing of right of the petitioner herein to conclude his evidence.

7. Learned counsel for the petitioner submits that petitioner being the plaintiff before the learned Trial Court had filed a suit for possession with respect to suit property Plot no. 10 out of Khasra No. 1303/231/232, Village Rithala now known as Rithala Extn., Delhi on 09.05.2014.

8. On 30.04.2023 in order to prove his case, the attorney of the plaintiff stepped into the witness box and was examined in chief as PW-1. However, cross examination was deferred at the request of the learned counsel for the defendant and the matter was adjourned to 27.08.2022. On the said date, PW-1 was partly cross-examined and further cross-examination was deferred at the request of the defendant as the counsel for the defendant had some personal difficulty. Accordingly, the matter was adjourned to 17.01.2023.

9. The matter then came to be heard on 11.05.2022, on the said date of hearing adjournment was again requested on behalf of the defendant due to non-availability of his counsel again due to personal reasons which was not opposed on behalf of the petitioner and the cross-examination of PW-1 was deferred for 31.08.2023. On the said date of hearing, the witness i.e. PW-1 was present with the proxy counsel and a passover was requested. At the second call, the learned Trial Court closed the evidence of the plaintiff as the counsel for the petitioner/plaintiff could not reach at that moment. Subsequently, a review application dated 09.01.2024, under Section 114 read with Order XLVII along with application under Section 151 of Civil Procedure Code (“CPC”) was moved which was dismissed by the learned Trial Court vide the impugned order.



10. It is submitted that on each and every date of hearing the witness was in attendance before the learned Trial Court to get himself cross-examined however, adjournments were requested on behalf of the defendants/respondents.

11. It is submitted that it was only on 31.08.2023 when the counsel for the petitioner could not appear in time and the right to further cross-examination of PW-1 was closed without waiting for the counsel for the petitioner.

12. It is submitted that the witness had wanted himself to be cross-examined in presence of his counsel, however, the learned Trial Court proceeded without adhering to his request.

13. The submissions are opposed by learned counsel for the respondents and submits that it was not only on 31.08.2023 that the witness could not be cross-examined but even on previous dates of hearing also the adjournments were being requested by the plaintiff/petitioner as the suit had been instituted in the year 2014. It is submitted that in these circumstances the learned Trial Court had rightly closed the evidence of the petitioner and dismissed the review application.

14. Apart from hearing the arguments, the impugned order is also perused. Having considered the submissions made herein above and keeping in view the adjournments requested on both the sides, only one opportunity is granted to the petitioner as well as to the respondents for concluding the evidence of the petitioner on a single day that is the date already fixed i.e. 01.04.2024 before the learned Trial Court.

15. The learned counsel for the petitioner submits that apart from the cross-examination of PW-1, two official witnesses remain to be examined on behalf of the petitioner, which is objected to on behalf of the respondent



submitting that the same shall again delay the proceedings further. However, one opportunity is also granted to examine the said two officials one is stated to be witness from the Office of the SDM and another from the Electricity Department.

16. The learned counsel shall try and summon both the witnesses on 01.04.2024 in case, the cross-examination of PW-1 as well as the two witnesses left to be examined on behalf of the petitioner cannot be concluded on 01.04.2024. The learned Trial Court shall grant one more opportunity to the petitioner within a month to examine both the other witnesses as per the convenience of the learned Trial Court. However, it is made clear that no other opportunity shall be granted for examination and cross-examination of other two official witnesses.

17. Petition is allowed subject to cost of Rs. 15,000/- to be paid to the respondents on the next date of hearing before the learned Trial Court.,

18. Petition along with pending application stands disposed of.

SHALINDER KAUR, J.

FEBRUARY 26, 2024/SDS