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

+ **CM(M) 2067/2024**

PEEYUSH JAIN

..... Petitioner

Through: Mr. Sanjeev Soni, Thakur Sumit and
Mr. Abhishek Chhabra, Advs.

versus

GHASI RAM JAIN (SINCE DECEASED) THROUGH HIS LRS

AND ORS

..... Respondents

Through: Mr. J.K. Bhola, Mr. Gaurav Jain, Ms.
Muskan, Mr. Ankit Jain, Ms. Rabi
and Mr. Nishant Pachori, Advs. for R-
2 and R-3.
Mr. Manoj Kumar Roy, Adv. for R-4.
Mr. Chandresh Jain, Adv. for R-
5/defendant no. 5 along with
defendant no.5 in person.

CORAM:
HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **11.03.2024**

CM APPL. 14635/2024(exemption)

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

**CM(M) 2067/2024, CM APPL. 14633/2024—stay, CM APPL.
14634/2024—for getting R-1 to 5 served through counsel**

3. The present petition under Article 227 of the Constitution of India read with Section 151 Civil Procedure Code (“CPC”) has been filed impugning the order dated 20.02.2024 passed by the learned ADJ-04, South-



West district, Dwarka Courts, Delhi, in CS ADJ 16857/2016 titled as “*Ghasi Ram Jain vs. Padam Chand Jain & Ors.*”, whereby the right of the petitioner to cross examine D1W2 was closed.

4. Learned counsel for the petitioner submits that a suit for partition and permanent injunction was instituted by Sh. Ghasi Ram Jain now deceased against his three brothers i.e. respondent no.2/Sh. Padam Chand Jain and respondent no.3/Sh. Prem Chand Jain (now deceased) and respondent no.4/Sh. Ramesh Chand Jain herein on 14.08.2000. The suit was contested by the respondents by filing separate written statements.

5. In the meanwhile, an application under Order I Rule 10 CPC was moved by the petitioner and respondent no.5 for impleading them as defendants i.e. no.4 and 5 which was allowed vide order dated 28.05.2005. Thereafter, the plaintiff started with leading his evidence which was concluded on 01.09.2017.

6. It is submitted that while D1W2 was under cross-examination, the learned Trial Court closed the right of the petitioner of further cross-examination of D1W2 as certain questions were put by the petitioner which the learned Trial Court had found to be irrelevant however without recording an answer to those questions, the questions were disallowed, which is impermissible.

7. The learned counsel for petitioner submits it is necessary for the petitioner that cross-examination of D1W2 be completed else his defence shall be prejudiced thus he should be granted atleast one opportunity to conclude the entire cross-examination of DIW2 for which he will take only two hours.

8. The submissions are strongly controverted on behalf of respondent no.



2 and 3 by submitting that multiple opportunities were granted to the petitioner to conclude the cross-examination and thereafter vide order dated 30.01.2024 the learned Trial Court had prepared a time frame schedule with respect to recording of evidence as per convenience of the party, which was to start from 30.01.2024 and to conclude on 21.02.2024. However, the petitioner has not been conducting the cross-examination in a proper manner and was asking irrelevant questions which were being disallowed by the learned Trial Court therefore, in the middle of the proceedings, the learned counsel for the petitioner submitted that he was not willing to cross-examine the witness further. Hence, his right to further cross-examine D1W2 was closed. Therefore, there is no illegality in the impugned order.

9. Without going into further controversy as the petitioner has requested only single opportunity to conclude the cross-examination of D1W2 consequently, the petitioner to conclude the entire cross-examination of D1W2 on a single date to be fixed by the learned Trial Court as per its convenience. It is made clear, the case will not be adjourned thereafter for further cross-examination of D1W2.

10. With above observations, the present petition along with pending applications stands disposed of.

SHALINDER KAUR, J.

MARCH 11, 2024/SDS